

Exhibit D

Hue
Valerie D. Hue

v.
C.A. # 05-225-KAJ

NCO Financial Systems, Inc.
January 4, 2006

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VALERIE D. HUE,)
)
 Plaintiff,)
) Civil Action
 v.) No. 05-225-KAJ
)
 NCO FINANCIAL SYSTEMS, INC.,)
 a Delaware corporation,)
 trading as NCO FINANCIAL)
 COMMERCIAL SERVICES,)
 Defendant.)

Deposition of VALERIE D. HUE taken pursuant to
notice at the law offices of Parkowski, Guerke &
Swayze, 116 West Water Street, Dover, Delaware,
beginning at 9:41 a.m. on Wednesday,
January 4, 2006, via telephone before
Lucinda M. Reeder, RDR, CRR and Notary Public.

APPEARANCES:

JEREMY W. HOMER, ESQ.
PARKOWSKI, GUERKE & SWAYZE, P.A.
116 West Water Street
Dover, Delaware 19901
for the Plaintiff,

ELIZABETH FITE, ESQ.
THE LAW OFFICE OF ELIZABETH FITE
15316 North Florida Avenue, Suite 100
Tampa, Florida 33613
- and -

DAVID B. ISRAEL, ESQ.
3850 N. Causeway Boulevard, Suite 1240
Metairie, LA 70002
for the Defendants

WILCOX & FETZER, LTD.
1330 King Street - Wilmington, Delaware 19801
(302) 655-0477

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- 1 **that now. No.**
- 2 Q. Does your husband work?
- 3 **A. Yes.**
- 4 Q. Is he part of the same tax return?
- 5 **A. Yes.**
- 6 Q. What does your husband do?
- 7 **A. He is a therapist, mental health therapist.**
- 8 Q. After leaving NCO, did you apply to work
- 9 anywhere else?
- 10 **A. Yes.**
- 11 Q. Where was that?
- 12 **A. I applied with a company in Pennsylvania. I do**
- 13 **not recall the name.**
- 14 Q. What kind of company was it?
- 15 **A. It was a placement firm that deals with**
- 16 **accounting placements.**
- 17 Q. Did they offer you a job?
- 18 **A. No.**
- 19 Q. Aside from the accounting placement firm, any
- 20 other applications?
- 21 **A. Yes.**
- 22 Q. Do you remember where?
- 23 **A. No.**
- 24 Q. Do you remember how many?

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- 1 **A. Perhaps nine or 10.**
- 2 Q. Were you given any offers from those, perhaps,
- 3 nine or 10 applications?
- 4 **A. No.**
- 5 Q. Were any of them collection firms?
- 6 **A. I believe so.**
- 7 Q. Do you remember which ones?
- 8 **A. No.**
- 9 Q. Aside from the charge of discrimination in this
- 10 lawsuit and aside from your divorce, have you ever
- 11 been involved in any other litigation?
- 12 **A. No.**
- 13 Q. Ever filed a charge of discrimination anywhere
- 14 else?
- 15 **A. No.**
- 16 Q. Ever been sued by anybody?
- 17 **A. No.**
- 18 Q. Where did you grow up?
- 19 **A. In a small place called Harbeson, Delaware.**
- 20 Q. Where did you go to -- did you go to high
- 21 school?
- 22 **A. Yes.**
- 23 Q. Did you graduate?
- 24 **A. Yes.**

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- 1 Q. When was that?
- 2 **A. Eighty -- I am not really sure.**
- 3 Q. Well, did you graduate from a high school or
- 4 take a G.E.D.?
- 5 **A. High school.**
- 6 Q. Do you remember the name of your high school?
- 7 **A. Cape Henlopen High School, Lewes, Delaware.**
- 8 Q. Can you spell that?
- 9 **A. C-A-P-E H-E-N-L-O-P-E-N High School.**
- 10 Q. What town was that?
- 11 **A. Lewes, L-E-W-E-S.**
- 12 Q. Delaware?
- 13 **A. Yes.**
- 14 Q. Have you gone to college?
- 15 **A. I went to a couple of colleges.**
- 16 Q. Where was that?
- 17 **A. In Virginia, I started at Liberty University**
- 18 **and Del Tech, in Delaware.**
- 19 Q. Did you finish?
- 20 **A. No.**
- 21 Q. Do you have any degrees after high school?
- 22 **A. No.**
- 23 Q. What was your first professional job?
- 24 **A. My first professional job was a legal**

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- 1 **investigator.**
- 2 Q. When was that?
- 3 **A. Eighty something.**
- 4 Q. I have records that suggest you started at the
- 5 NCO predecessor Milliken & Michaels in March of 1994.
- 6 Did you ever work in collections before M&M?
- 7 **A. I believe so. I worked -- I cannot recall the**
- 8 **name of the company I worked for.**
- 9 Q. One job before M&M?
- 10 **A. In collections. I am not a hundred per sure.**
- 11 **It's been many years ago.**
- 12 Q. Aside from legal investigations and
- 13 collections, did you have any other types of jobs
- 14 before working at M&M?
- 15 **A. No. I have worked in legal investigations and**
- 16 **collections. High school, dishwasher, stuff like**
- 17 **that. That's what I can recall. That's going back**
- 18 **many years.**
- 19 Q. I am asking of a professional nature.
- 20 **A. Yes.**
- 21 Q. And at one point, you left M&M and then came
- 22 back. Do you remember that?
- 23 **A. Yes.**
- 24 Q. What did you do while you were gone from M&M?

11 (Pages 38 to 41)

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1 **A. Became a housewife.**
 2 Q. Did you ever do belly-dancing or singing or
 3 some type of career in show business?
 4 **A. Yes. I am a professional belly-dancer.**
 5 Q. You say "professional." Do you earn money
 6 doing that?
 7 **A. Yes.**
 8 Q. Are you still belly-dancing today?
 9 **A. Yes.**
 10 Q. Where do you belly-dance?
 11 **A. At shows, at lawyer conventions. On cruise**
 12 **ships. In other countries. For television shows.**
 13 Q. When was the last time you did a TV show?
 14 **A. WMDTV. In December, November I was on**
 15 **television.**
 16 Q. How long have you been belly-dancing?
 17 **A. The professional term is Raksharke dancer.**
 18 Q. Can you spell that?
 19 **A. R-A-K-S-H-A-R-K-E dancer. And the art I have**
 20 **been performing for probably about 15 to 20 years.**
 21 **About 15 years professionally.**
 22 Q. How much do you make a year from that?
 23 **A. Not a lot. Perhaps, maybe, \$5,000. It**
 24 **depends.**

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1 Q. It depends on the year?
 2 **A. It depends on the year and the location.**
 3 Q. Did you start at M&M as a small balance
 4 collector?
 5 **A. Yes.**
 6 Q. And you worked your way up to mid balance?
 7 **A. Yes.**
 8 Q. And then to super mid balance?
 9 **A. Yes.**
 10 Q. And those rankings from small to mid to super
 11 mid are promotions?
 12 **A. Yes.**
 13 Q. I have a record that suggests effective
 14 April 10, 1995, you were promoted from super mid to
 15 large balance, Dover branch, for Milliken & Michaels.
 16 Ring a bell?
 17 **A. Yes.**
 18 Q. In fact, this record appears to be signed by
 19 Bill Savage. Was he the one who hired you?
 20 **A. No.**
 21 Q. Was he your supervisor?
 22 **A. No.**
 23 Q. Was he in charge of the branch for Dover,
 24 Delaware for M&M as of March of 1994?

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1 **A. He was the general manager for the branch.**
 2 Q. He was the senior person there?
 3 **A. Yes.**
 4 Q. It's your testimony that Mr. Savage is the one
 5 who made racial comments in addition to Mr. Scher?
 6 **A. Oh, yes.**
 7 Q. Was Mr. Savage making racial comments from when
 8 you started in March of 1994?
 9 **A. Yes.**
 10 Q. Is it your testimony that from when you started
 11 in the Dover branch to the first time you quit
 12 Mr. Savage always made racial comments?
 13 **A. Yes.**
 14 Q. Did you ever complain about that?
 15 **A. Yes.**
 16 Q. And nothing was done?
 17 **A. He was spoken to.**
 18 Q. I wanted to focus on the first time you worked
 19 at M&M before you left. Okay?
 20 **A. Sure.**
 21 Q. I have a resignation for you effective
 22 January 23, 1998. Does that sound about right?
 23 **A. Sounds about right.**
 24 Q. When you say he was spoken to, you are saying

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1 that the M&M management spoke to Mr. Savage relating
 2 to his racial comments against you?
 3 **A. I believe so.**
 4 Q. Did it ever change? Meaning, did he ever make
 5 less comments or no comments?
 6 **A. He slacked off the comments for a period of**
 7 **time.**
 8 Q. Were they just racial or racial and sexual for
 9 the first time you worked at M&M?
 10 **A. Racial and sexual.**
 11 Q. Who was your direct supervisor when you first
 12 started at M&M?
 13 **A. David Sokol.**
 14 Q. I have records that say you came back to M&M in
 15 April of 1999. Does that sound right?
 16 **A. Perhaps.**
 17 Q. I have your offer letter. Looks like it's
 18 signed by you April 19, 1999. Let the record reflect
 19 I am showing the witness Bates numbers 122, 123 and
 20 124. Do you see that's dated April 19th, ma'am?
 21 **A. Yes.**
 22 Q. If you'd flip to 124. Is that your signature?
 23 **A. Yes.**
 24 Q. When you got back in April of 1999, was

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1 Mr. Savage still there?
2 **A. Yes.**
3 Q. Was he still making comments of a racial
4 nature?
5 **A. Yes.**
6 Q. Was he still making comments of a sexual
7 nature?
8 **A. Yes.**
9 Q. Did you ever report those comments upon your
10 return to M&M after April of 1999?
11 **A. I made mention of them.**
12 Q. To whom?
13 **A. It would have been the general manager at the**
14 **time.**
15 Q. Was the general manager different than Bill
16 Savage?
17 **A. Yes.**
18 Q. Do you remember who that was?
19 **A. No, I don't remember.**
20 Q. Was that Virgil Freeman?
21 **A. No. Virgil was before my time. There was a**
22 **time -- I went back. There was a time where --**
23 Q. Tim Sanderson?
24 **A. No, Tim was before my time.**

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1 Q. Joe Batie?
2 **A. No, no. There is someone we're missing in**
3 **there.**
4 **(Hue Deposition Exhibit No. 3 was marked**
5 **for identification.)**
6 **BY MR. ISRAEL:**
7 Q. Well, let me know if it comes to you.
8 Let me show you what I have marked for
9 identification as Hue 3. It's dated June 16, 1999 and
10 I believe signed by you and entitled "M&M Policy
11 Prohibiting Harassment and Discrimination."
12 MR. HOMER: What was Hue 2?
13 MR. ISRAEL: It was the deposition notice.
14 **BY MR. ISRAEL:**
15 Q. Is that your signature?
16 **A. Yes.**
17 Q. Do you see on here the fifth paragraph, "Any
18 employee who believes that they have been harassed,
19 intimidated or discriminated against should report
20 this wrongful conduct to their supervisor, their
21 branch manager or M&M's president Mr. Trey Cefalu?
22 **A. Yes.**
23 Q. Did you report this to your branch manager? I
24 am now speaking of Mr. Savage's discriminatory

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1 comments.
2 **A. Yes. That would have been the GM at the time.**
3 **I do not recall the person's name.**
4 Q. What, if anything, was done after you reported
5 it?
6 **A. I don't know.**
7 Q. Was anything done?
8 **A. I don't know.**
9 Q. Was there any change in Mr. Savage's behavior
10 towards you after you reported it?
11 **A. He was nastier.**
12 Q. Did he continue to make racial or sexual
13 comments of a discriminatory nature after you reported
14 it?
15 **A. Yes.**
16 Q. Did you report it again?
17 **A. Yes.**
18 Q. To the same GM who we haven't identified?
19 **A. The same GM and to a different GM.**
20 Q. Do you know the name of the second GM that you
21 reported it to?
22 **A. Or GCM. Actually Rick Boudreau.**
23 Q. Did Mr. Savage's treatment of you change after
24 you reported it to the general collections manager

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1 Mr. Rick Boudreau?
2 **A. Oh, yes, it changed.**
3 Q. There was an inflexion in your voice. Meaning
4 it got worse or better?
5 **A. It got worse.**
6 Q. And it got worse by way of racial and sexual
7 comments by Mr. Savage?
8 **A. Yes.**
9 Q. Do you have a time frame as to when you went to
10 Mr. Boudreau, the GCM, regarding these comments?
11 **A. Rephrase the question, please.**
12 Q. Do you have a time frame as to when you
13 complained, like the year?
14 **A. No, I don't.**
15 Q. We know it was after 1999?
16 MR. HOMER: I'm sorry. Would you mind
17 sitting down? I think it might be a little
18 intimidating to be talking up to you like that.
19 MR. ISRAEL: No one has ever called me
20 intimidating before, but I'll take it.
21 THE WITNESS: Okay.
22 **BY MR. ISRAEL:**
23 Q. If at any time I do anything that intimidates
24 you in any way or is in any way disrespectful, you let

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1 me know. Okay?

2 **A. I will.**

3 Q. Now, for the time, how many times do you think

4 you complained to Mr. Boudreau as the general

5 collections manager regarding Mr. Savage's wrongful

6 treatment towards you?

7 **A. I made numerous complaints to numerous**

8 **managers, and nothing was done. His behavior**

9 **continued and escalated. And I do not have his name.**

10 Q. He was never your boss directly. Was he?

11 **A. That's always a question when it comes to the**

12 **NCO procedure. Is the general manager the manager of**

13 **the collections desk? Some say, yes; some say, no. I**

14 **cannot answer that. It all depends on their**

15 **philosophy.**

16 Q. Well, did he affect your pay as far as you

17 knew?

18 **A. Oh, yes.**

19 Q. As a collector, as a large balance collector,

20 he affected your pay?

21 **A. I believed as an employee he would have to sign**

22 **off on documents, you know, if I got promoted or**

23 **termed, or anything, he would sign off on it. I would**

24 **say, "yes" to that. I could be incorrect.**

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1 Q. To the best of your knowledge, did he ever

2 interfere with any of your promotions from small to

3 mid to super mid to large balance collector?

4 **A. No.**

5 Q. Did he ever interfere with your promotion into

6 management?

7 **A. No.**

8 Q. Did he ever interfere with any promotion?

9 **A. No.**

10 Q. Did he ever demote you?

11 **A. Threatened, but did not.**

12 Q. When do you remember him threatening?

13 **A. I do not remember the date or the year.**

14 Q. Mac Iago, do you remember that you worked for

15 him?

16 **A. Yes.**

17 Q. Now, I am looking at — and I'll be happy to

18 show you — some 1999 written complaints against you

19 regarding compliance issues.

20 **A. Mm-hmm.**

21 Q. Was there anything discriminatory about the

22 issuance of these compliance issues?

23 **A. No.**

24 Q. I have number 77 and 78, a July 8th, 1999 memo

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1 from Mac Iago to you, Ms. Hue, along with a Milliken &

2 Michaels compliance violation notice. Do you remember

3 receiving those?

4 **A. Yes.**

5 Q. M&M was the predecessor business before NCO

6 took over the commercial division. Correct?

7 **A. Correct.**

8 Q. Do you remember that M&M had compliance rules

9 relating to how collectors would conduct themselves?

10 **A. Yes.**

11 Q. Do you remember that collectors were obligated

12 to follow those rules?

13 **A. Yes.**

14 Q. Do you remember that if collectors violated

15 those rules that they were disciplined?

16 **A. Yes.**

17 Q. In fact, that would be an example of such

18 collector compliance discipline which you have in

19 front of you. Correct?

20 **A. Yes.**

21 Q. Do you remember that all collectors signed

22 acknowledgments concerning their responsibilities to

23 follow the rules?

24 **A. Yes.**

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1 Q. Do you remember that you, like other

2 collectors, signed such documents confirming your

3 obligations to follow the rules?

4 **A. Yes.**

5 Q. Eventually when you went into management, you

6 were responsible to ensure that the collectors that

7 you supervised followed those rules?

8 **A. Rules that were in effect at the time, yes.**

9 Q. Those rules had changes to them. Correct?

10 **A. Yes.**

11 MR. ISRAEL: I'll mark this as Hue 4,

12 document numbers 77 and 78.

13 (Hue Deposition Exhibit No. 4 was marked

14 for identification.)

15 BY MR. ISRAEL:

16 Q. Did you consider yourself a successful

17 collector?

18 **A. Yes.**

19 Q. Meaning that you were talented at convincing

20 debtors to give money relating to debts they owed?

21 **A. Rephrase that one more time.**

22 Q. Sure. Did you consider yourself a successful

23 collector?

24 **A. Yes.**

14 (Pages 50 to 53)

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1 Q. Meaning that you were capable in convincing
2 debtors to pay the debts that they owed?
3 **A. Yes.**
4 Q. Meaning you also understood the rules relating
5 to compliance?
6 **A. That were effective, yes.**
7 Q. Meaning that you followed those rules that were
8 effective?
9 **A. Yes.**
10 Q. Meaning that you understood that if you
11 violated those rules that you could be fired?
12 MR. HOMER: Are you saying every single
13 rule? Could you identify what you are talking about
14 with rules?
15 BY MR. ISRAEL:
16 Q. Well, I am talking about the collectors
17 compliance program. You understood that if you
18 violated rules, you could be fired?
19 **A. Up to and including termination.**
20 Q. Good point. It would be progressive up to and
21 including termination. Correct?
22 **A. Correct.**
23 Q. And there were certain violations that were
24 more serious and certainly violations that were less

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1 serious. Correct?
2 **A. Yes.**
3 Q. Were you in the Dover branch when taping
4 occurred?
5 **A. I'm sorry. Repeat the question.**
6 Q. Were you in the Dover branch when taping of
7 debtors occurred?
8 **A. Yes.**
9 Q. Do you remember when you became a manager?
10 **A. I do not recall the date.**
11 Q. I am not positive, but does November 2001 sound
12 right? I have a memo to you from Rick Boudreau, re:
13 small balance manager compensation, dated November
14 2001. Does that ring a bell?
15 **A. No. Can I see the document?**
16 Q. Sure. Do you think it was earlier? This is
17 number 175.
18 MR. HOMER: Is there a question?
19 Q. I am trying to establish the date. The
20 question is whether that refreshes your recollection
21 as to when you might have become a manager. If it
22 doesn't, it doesn't.
23 MR. HOMER: It doesn't say anything about
24 when she became a manager.

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1 **A. It doesn't say when I became a manager nor does**
2 **it have the proper department I was promoted to**
3 **manager, so I --**
4 Q. Who promoted you as a manager?
5 **A. Rick Boudreau.**
6 Q. You don't remember what year?
7 **A. No, I don't.**
8 Q. Now, I have a record that says from mid balance
9 manager to GCM effective immediately. This is dated
10 April 19, '02. Does that refresh your recollection as
11 to April of '02?
12 MR. HOMER: Can you give her the document?
13 Q. Sure. Does that refresh your recollection,
14 April of '02, as to when you were promoted to GCM?
15 This is number 173.
16 **A. Yes.**
17 Q. Do you remember who promoted you?
18 **A. Rick Boudreau.**
19 Q. And Kathy Obenshain approved this, number 173?
20 Do you see that, lower left-hand side?
21 **A. Yes.**
22 Q. Was Kathy Obenshain involved in that decision?
23 **A. I do not know.**
24 Q. Well, after you were promoted, you reported to

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1 Ms. Obenshain?
2 **A. Yes.**
3 Q. Did you talk with her about becoming the GCM in
4 Dover before you were promoted?
5 **A. No.**
6 Q. Before you were the GCM, what other collection
7 departments did you supervise?
8 **A. Mid balance department.**
9 Q. Did you also supervise the small balance
10 department?
11 **A. No.**
12 Q. Did you go from large balance to the mid
13 balance manager?
14 **A. Yes.**
15 Q. Then from the mid balance manager to GCM
16 effective April of 2002?
17 **A. Yes.**
18 MR. ISRAEL: I am going to make this one
19 Hue No. 5.
20 (Hue Deposition Exhibit No. 5 was marked
21 for identification.)
22 BY MR. ISRAEL:
23 Q. Nothing discriminatory about you being
24 promoted. Was there?

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1 **A. No.**
 2 Q. How did you get the tape of Phil Weaver, Ted
 3 Fox and Rick Boudreau?
 4 **A. It was mailed to me.**
 5 Q. When was it mailed to you?
 6 **A. In '03.**
 7 Q. Why was it mailed to you?
 8 **A. I don't know.**
 9 Q. Who mailed it to you?
 10 **A. I don't know.**
 11 Q. Where was it mailed to you?
 12 **A. My home.**
 13 Q. No return address?
 14 **A. No.**
 15 Q. Did you ever tell Mr. Boudreau that you had the
 16 tape?
 17 **A. No.**
 18 Q. Do you know who made the tape?
 19 **A. No.**
 20 Q. Are you and Mr. Boudreau friends or friendly?
 21 **A. I have not spoken to Mr. Boudreau since he**
 22 **left.**
 23 Q. Do you remember when he left?
 24 **A. Yes. We were friendly.**

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1 Q. I'm sorry. Did you leave before or after
 2 Mr. Boudreau?
 3 **A. Mr. Boudreau left first.**
 4 Q. Do you know how long before you he left?
 5 **A. In '02 he left. He left in '02.**
 6 Q. Where did he go?
 7 **A. I don't know.**
 8 Q. The tape that you received, was it on a
 9 cassette?
 10 **A. Yes.**
 11 Q. A big cassette or a little cassette?
 12 **A. A little cassette.**
 13 Q. Like a microcassette?
 14 **A. Yes.**
 15 Q. Did you have any knowledge before you received
 16 this tape in 2003 that the tape had been made?
 17 **A. No.**
 18 Q. Do you believe that the comments made on this
 19 tape proved that NCO ignored complaints regarding
 20 Mr. Savage's behavior? Let me rephrase. Do you
 21 believe that this tape somehow shows wrongful conduct
 22 by NCO?
 23 **A. Yes.**
 24 Q. What is the wrongful conduct?

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1 MR. HOMER: Do you need to look at the
 2 document?
 3 THE WITNESS: Yes.
 4 MR. HOMER: She hasn't seen that in a long
 5 time.
 6 BY MR. ISRAEL:
 7 Q. You are more than welcome to look at it. But
 8 in general terms, what is the wrongful conduct? Tell
 9 me in general terms what's the wrongful conduct.
 10 **A. I would like to take a look at it first.**
 11 Q. Well, you can, but I would like you to answer
 12 if you can. You are more than welcome to look at it.
 13 MR. HOMER: She's requested to look at the
 14 document. She has a right to look at the document
 15 before she answers the question.
 16 MR. ISRAEL: No, she does not if she has
 17 knowledge.
 18 MR. HOMER: She's asked to see a document.
 19 Let her see the document.
 20 BY MR. ISRAEL:
 21 Q. Let me go back. Have you ever listened to the
 22 tape?
 23 **A. Yes.**
 24 Q. Is it your belief that that tape evidences

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1 wrongful conduct by NCO?
 2 **A. I am going to use the words "hurtful and**
 3 **shameful conduct by NCO."**
 4 Q. That's my question. What was the hurtful and
 5 shameful conduct by NCO as evidenced by the tape?
 6 **A. Ted Fox's remarks.**
 7 Q. On the tape?
 8 **A. Yes.**
 9 Q. Okay. I am handing you what I understand to be
 10 a transcription of the tape. It is pages 124 through
 11 147. And even before you look at the tape, do you
 12 have a recollection as to what type of comment or
 13 comments that Mr. Fox made that were hurtful or
 14 shameful?
 15 **A. Attitude.**
 16 MR. HOMER: She asked to see the tape.
 17 She has a right to see what's on the tape. You asked
 18 her questions what's on the tape. She's asked to see
 19 it. She has a right to refresh her recollection.
 20 That's standard practice. She has a right to look at
 21 the document you are referring to.
 22 MR. ISRAEL: She doesn't have any right to
 23 look at anything.
 24 MR. HOMER: You are asking her about a

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1 document. She said she doesn't remember what's in it.
2 She would like to look at it.
3 MR. ISRAEL: You said that. That doesn't
4 mean she has a right to look at it.
5 MR. HOMER: You've asked her questions
6 about it. You have the document. I think she has the
7 right to look at it.
8 MR. ISRAEL: I am asking you to stop
9 interrupting. I am trying to get the witness' best
10 recollection. Then I promise, she can look at the
11 transcript.
12 BY MR. ISRAEL:
13 Q. Have you ever read the transcript, Ms. Hue, or
14 only listened to the tape?
15 A. I read the transcript this morning.
16 Q. When you read the transcript this morning, do
17 you now have a recollection as to what was the type of
18 comments that were hurtful or shameful by Mr. Fox?
19 A. There were comments that he made. And if I had
20 the document, I could tell you exactly what they were
21 that hurt and shamed me.
22 Q. Okay.
23 A. Very hurtful.
24 Q. Well, you can look at the document. I have

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1 request to get that information, what is hurtful or
2 shameful?
3 A. It's hurtful for me to read comments that were
4 made about my race. It's hurtful for me to read
5 comments when he's referring to African-Americans as
6 "niggers." It's hurtful. And it's shameful that in
7 this day and age that I have to read those things that
8 people are making those comments about women in the
9 workplace, about African-American women in the
10 workplace. It is hurtful and shameful. And it hurt
11 me today to read these documents.
12 Q. But Rick Boudreau didn't speak like that in the
13 workplace against you. Did he?
14 A. No, he did not.
15 Q. Phil Weaver, who was in charge of the
16 commercial division when that tape was made, didn't
17 make those types of comments. Did he?
18 A. No, he did not.
19 Q. Ted Fox did not make those types of comments
20 relating to women or race. Did he?
21 A. Reading this document, yes, he did.
22 Q. I opened it to page 17 where I understood Ted
23 Fox's comments to be. What comment in your opinion
24 would be of a racial or a sexual nature made by Ted

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1 taken the liberty to open it to page 17 of the
2 document, which is where I believe the first time I
3 see comments by Mr. Fox. I am giving you the whole
4 transcript and have put it in front of you. I am
5 going to ask, before you go through the whole
6 transcript, if you would look on page 17 in front of
7 you. Are those the comments by Mr. Fox that you find
8 hurtful or shameful?
9 MR. HOMER: You do have a right to look at
10 the whole transcript.
11 BY MR. ISRAEL:
12 Q. Absolutely. But before we get to the whole
13 transcript, that's my question. Are those comments on
14 page 17 that you believe to be hurtful or shameful?
15 A. This whole transcript is hurtful and shameful
16 to me, this whole transcript was.
17 Q. Why? The reason I ask is: I hear Boudreau
18 reporting wrongful conduct by Savage. Correct?
19 A. Yes.
20 Q. I hear Phil Weaver giving specific instructions
21 to have those issues investigated and to get
22 statements. Correct?
23 A. Yes.
24 Q. With Boudreau's report and Phil Weaver's

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1 Fox? Why don't we let the record reflect that the
2 witness is flipping through the transcript. You are
3 looking at the various names, Ms. Hue?
4 A. Yes, I am, starting at page 12.
5 Q. Okay. This is the comment by Mr. Fox?
6 A. It has "Unknown Voice."
7 Q. All right.
8 A. When I recalled listening to it, "Hold on for a
9 second."
10 Q. You have to speak up.
11 A. "Hold on for a second. That's off the chart.
12 This will get us in a lot of trouble."
13 Q. And you believe Ted Fox made that comment?
14 A. Yes.
15 Q. And you believe that Ted Fox making that
16 comment is hurtful or shameful?
17 A. It's hurtful because his -- yes.
18 Q. Why do you believe that to be hurtful or
19 shameful?
20 A. His concern that the company was going to get
21 in a lot of trouble. No concern for the employee.
22 Q. Okay. Anything else? Before we go on, when
23 you listened to the tape, even though the court
24 reporter on page 12 of the transcript wrote it says,

17 (Pages 62 to 65)

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1 "Unknown Voice" -- and it's the first line on page
2 12 -- do you think that was Mr. Fox?
3 **A. I recall so.**
4 Q. In fact, it says "Mr. Weaver" later on after
5 Boudreau on line 7 says, "Yeah, this is Ted." Okay?
6 All right. Any other hurtful or shameful
7 comments by Mr. Fox?
8 **A. Mr. Boudreau, line 13, page 13: "'N' word, you**
9 **know, awake enough to be able to dial the phone,**
10 **Mr. Weaver says in front of producer." Mr. Fox says,**
11 **"How many people? How many?" "Just one."**
12 **Mr. Fox seemed to have no regard for the**
13 **words that were said, just about the company itself.**
14 **That to me was hurtful.**
15 Q. So to make sure I understand. The hurtful and
16 shameful part by Fox is that while he is listening to
17 Savage's wrongful conduct, as described by Boudreau,
18 you think that he is showing no sensitivity toward you
19 since Boudreau is repeating who Savage is speaking to?
20 **A. Yes.**
21 Q. Okay. Anything else hurtful or shameful?
22 **A. When Mr. Fox says on line 17, page 14 that**
23 **"What direction is this?" Then it has**
24 **"unintelligible."**

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1 Q. What do you gather or garner out of that
2 comment that is hurtful or shameful?
3 **A. Again, no regard, no sympathy and/or empathy of**
4 **the conduct paid to the employees. Just for the**
5 **company itself.**
6 Q. Your criticisms of Mr. Fox, there were three,
7 each time you have indicated Fox doesn't care about
8 you as a person, but only about protecting the
9 company. Correct?
10 **A. From reading these pages thus far, yes.**
11 Q. Is there any other type of comment Fox made
12 that doesn't fall into that category hurtful or
13 shameful?
14 MR. HOMER: Let her finish reading it.
15 **A. Page 15, line 3, where Mr. Fox says, "This is**
16 **not our concern."**
17 Q. Can I see that for a moment. Can I see the
18 previous page 14?
19 On page 14 Boudreau says, "Right. I
20 already have a couple of salesmen, you know, that I
21 have got that had issues. Bob Garrett and I have
22 had" --
23 "Weaver says, Unintelligible racial
24 epithet."

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1 Fox says top of page 15, line 3, "That's
2 not our concerns."
3 Weaver top of page 15, line 4 "That's way
4 off the chart."
5 Do you know what Boudreau is speaking of
6 when he talks about a couple of salesmen that have
7 issues, Bob Garrett in particular? Do you have any
8 information about that?
9 **A. No.**
10 Q. So when Fox says that is not our concern, do
11 you know what this comment is in relationship to?
12 **A. I believe it is in relationship to Rick's**
13 **and -- Mr. Boudreau explaining the racial and sexual**
14 **comments that were made by Bill and the general**
15 **conduct that Bill had in the office.**
16 Q. I am not trying to argue with you. But from
17 this transcript, why do you believe that since it
18 says, "unintelligible"?
19 **A. When I recalled listening to the tape and what**
20 **she has a "unintelligible," line 1, page 15, has**
21 **"racial epithets."**
22 Q. Right.
23 **A. It has "unintelligible." Then line 3, page 15**
24 **has Mr. Fox, "This is not our concern." When I**

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1 **recalled listening to that it was Mr. Weaver speaking**
2 **of racial and sexual comments that have been made.**
3 **And Mr. Fox's statement was: "It is not our concern."**
4 **She has "unintelligible."**
5 Q. Okay. Anything else that is hurtful or
6 shameful by Mr. Fox?
7 **A. Line 7, page 17. Mr. Fox states, "Okay. But**
8 **you know about Bill and her have joking relationship**
9 **that -- I don't know if they were joking or not, but**
10 **that they are related."**
11 Q. Did you ever have a joking relationship with
12 Mr. Savage?
13 **A. Bill had a relationship about joking about**
14 **being one of my masters because we're from the same**
15 **area. He would make that comment in front of many**
16 **people. I hated that comment.**
17 Q. Okay. Anything else in the transcript hurtful
18 or shameful by Mr. Fox?
19 **A. Page 17, line 13, "Mr. Fox: (Unintelligible.)**
20 **Apparently, I mean, there is a black heritage in**
21 **Bill's family going back to the Civil War or**
22 **whatever." Hurtful and shameful.**
23 Q. As far as you know, does Bill Savage have some
24 kind of black heritage in his family?

18 (Pages 66 to 69)

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1 A. I don't know.
2 Page 17, line 18, Mr. Fox says, "Don't get
3 comfortable with someone or somebody. This is what
4 you get." "Don't get comfortable with somebody. This
5 is what you get."
6 Q. Okay. What does that refer to or what do you
7 understand that to refer to?
8 A. That if a female and a male employee work
9 together, and they are business associates, that
10 perhaps in his opinion that this is what you get when
11 a female and a male work together in a business
12 relationship. That's what I took it to mean.
13 Q. Meaning --
14 A. This is what you get.
15 Q. Meaning that whatever relationship Fox believes
16 is between you and Savage, that's what he's commenting
17 about?
18 A. Not Fox and Savage. Male and female.
19 Q. Okay. Anything else hurtful and shameful?
20 A. Page 23, line 15, "Mr. Fox:" It says,
21 "Unintelligible."
22 As I recall the tape, Fox had made a
23 comment about female and male workers, but it has
24 "unintelligible."

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1 Q. From your recollection of the tape, what's
2 hurtful and shameful about Fox's comments about male
3 and female workers?
4 A. I do not believe that because women are in the
5 workplace it causes sexual harassment. Do you?
6 Q. No. But is that what you infer from Mr. Fox's
7 comment there? That's what I am asking.
8 A. I recalled from the tape -- and she has
9 "unintelligible" -- I believe that's what he had said.
10 I am paraphrasing.
11 MR. ISRAEL: Let's attach as Hue No. 6 a
12 copy of the court reporter transcript that has
13 plaintiff Bates number 124 to 147. It is a 24-page
14 transcript.
15 (Hue Deposition Exhibit No. 6 was marked
16 for identification.)
17 MR. ISRAEL: Now, I have your October 15,
18 2001 memo to Ted Fox carboning Rick Boudreau, re:
19 comments of Bill Savage, Bates number 191. I am going
20 to mark this as Hue No. 7.
21 (Hue Deposition Exhibit No. 7 was marked
22 for identification.)
23 BY MR. ISRAEL:
24 Q. I hand it to your attorney and ask if that is

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1 your signature in the lower right-hand corner.
2 Is that your signature?
3 A. Yes.
4 Q. That was the statement that you prepared as a
5 result of who asking you?
6 A. Phil Weaver.
7 Q. And Bill Savage was fired in October of 2001.
8 Do you remember that?
9 A. Yes.
10 Q. Do you know why he was fired?
11 A. No.
12 Q. No one ever told you that he was fired relating
13 to comments of an inappropriate nature in the
14 workplace?
15 A. No.
16 Q. Is it your testimony that until this minute
17 right now you had never heard that before?
18 A. We were not given information about why Bill
19 was fired. We only speculated.
20 Q. And did you ever speculate with Rick Boudreau
21 as to why Bill Savage was fired?
22 A. Yes.
23 Q. Did Rick Boudreau confirm to you what he
24 thought as to why Savage was fired?

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1 A. Yes.
2 Q. Did he confirm to you that he thought Savage
3 was fired for his inappropriate behavior in the
4 workplace?
5 (Recess taken.)
6 (The reporter read the pending question.)
7 BY MR. ISRAEL:
8 Q. Did he confirm to you that he thought Savage
9 was fired for his inappropriate behavior in the
10 workplace?
11 A. Yes.
12 Q. Did others confirm that to you?
13 A. No.
14 Q. Did Phil Weaver ever discuss it with you?
15 A. Not that I recall, no.
16 Q. How long after your submission of your
17 Hue No. 7 was Savage fired?
18 A. I do not have documents that show he was fired.
19 Q. Right. I have a document that says October 11,
20 2001, his termination. What is your document dated,
21 Hue No. 7?
22 A. 10/15.
23 Q. Did anyone aside from Rick Boudreau talk to you
24 about Mr. Savage's inappropriate conduct toward you?

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1 **A. No.**
2 Q. Meaning he never asked anybody?
3 **A. No.**
4 Q. Do you remember if your memo was sent to
5 Mr. Fox after Savage was gone?
6 **A. No, I don't recall.**
7 Q. Were you aware that Rick Boudreau gave a
8 statement regarding Mr. Savage's inappropriate
9 conduct?
10 **A. I was aware yesterday.**
11 Q. Did you ever discussions with Eric Shaw
12 regarding Mr. Savage's wrongful conduct?
13 **A. No.**
14 Q. Okay. Now, after Mr. Savage was gone from the
15 business, who was the general manager in the office?
16 **A. I am not sure.**
17 Q. At some point after Mr. Savage was gone
18 Mr. Batie was the general manager?
19 **A. Right.**
20 Q. He took Mr. Savage's place or spot?
21 **A. Right.**
22 Q. Mr. Davies is African-American?
23 **A. Right.**
24 Q. You are not suggesting in any way that he,

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1 Mr. Davies, retaliated against you or treated you
2 badly as a result of anything you did regarding
3 Savage. Are you?
4 **A. No.**
5 Q. It's your testimony that Mr. Fox retaliated or
6 has treated you badly over Mr. Savage being fired and
7 your report regarding Mr. Savage?
8 **A. Yes.**
9 Q. What aside from your discharge, if anything,
10 did Mr. Fox do of a retaliatory or discriminatory
11 nature after Savage was gone?
12 **A. He suspended me, and he terminated me.**
13 Q. And that all relates to the issue of improper
14 handling of checks. Correct?
15 **A. That's what he claimed.**
16 Q. Between October of 2001 when you made your
17 report about Savage and when you were suspended
18 regarding improper handling of checks, as claimed by
19 NCO and Ted Fox, what, if anything, did Ted Fox do of
20 a retaliatory or discriminatory nature against you?
21 **A. Other than my suspension and termination?**
22 Q. Yes.
23 **A. And ignoring me. That would be basically it.**
24 Q. When you say ignoring you, what do you mean?

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1 **A. When he visited the office, he would not**
2 **acknowledge me. When I saw him on business trips, he**
3 **would not acknowledge me.**
4 Q. Okay. So he would ignore you?
5 **A. Mm-hmm.**
6 Q. And in addition or aside from him ignoring you
7 from October of 2001 until your January 2004
8 suspension, what else, if anything else, did he do?
9 **A. Nothing. I had no direct contact with Ted as**
10 **he was in sales. Only when he became the**
11 **vice-president or president of operations.**
12 Q. Only when he became the head of the commercial
13 division?
14 **A. Right.**
15 Q. Once he became head of the commercial division,
16 aside from ignoring you, anything else?
17 **A. He called me and terminated me and suspended**
18 **me.**
19 Q. I am only asking for the time period between
20 October of 2001 when you made your report, which is
21 Hue 7 in front of you, and January of 2004 when you
22 were suspended and then terminated. That's the time
23 period I'm looking for. Aside from Mr. Fox ignoring
24 you during that time as head of the commercial

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1 division, anything else?
2 **MR. HOMER:** You just asked the question.
3 She answered it she was suspended and fired. That was
4 in January of 2004. That's the time period you asked
5 about.
6 **MR. ISRAEL:** Come on.
7 **MR. HOMER:** What do you mean "come on?"
8 (Discussion off the record.)
9 **BY MR. ISRAEL:**
10 Q. To make sure that, we're only dealing with the
11 time period of your October 2001 report -- and Hue 7
12 in front of you. Correct?
13 **A. Yes.**
14 Q. -- and prior to your suspension and then
15 termination in January 2004, once Mr. Fox became the
16 head of the commercial division, did he do anything
17 wrong except ignore you?
18 **A. Once he became the head of commercial division,**
19 **within two weeks, he fired me -- he suspended me and**
20 **terminated me.**
21 Q. Is it your belief that Mr. Fox was the
22 decision-maker relating to you being suspended and
23 fired?
24 **A. I believe he was.**

20 (Pages 74 to 77)

Hue - Israel

1 NCO's procedures regarding the submission of NSF
2 checks?

3 A. No.

4 Q. And at no time do you have
5 any recollection that any of your collectors violated
6 NCO procedure regarding the submission of NSF checks?

7 A. I cannot answer that.

8 Q. As you sit here, you don't
9 know of any?

10 A. I do not, I can't answer
11 that. I don't know what they did or did not do.

12 Q. To the best of your
13 knowledge.

14 A. I will not answer that. I
15 do not know.

16 Q. Do you have any knowledge
17 that they violated the procedure?

18 A. Obviously, Matt Lane
19 violated the procedure. I'm not sure of other
20 collectors that have not been caught yet through
21 investigation, so I don't feel comfortable answering
22 that question.

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Hue - Israel

1 Q. Have you seen the sworn
2 statements of Brian Laiche, Darron DeEsch, Steve Ross,
3 Chris Satasiero, Lenny Ciccarone, Mannie Cardozo, Joe
4 Batie, and Mike Scher?

5 A. I read those yesterday.

6 Q. And Joe Thomas?

7 A. Yes.

8 MR. HOMER: Are those all
9 the identical statements? Can I get one
10 of them to look at?

11 MR. ISRAEL: Sure. They're
12 not quite identical, but they're very
13 similar.

14 BY MR. ISRAEL:

15 Q. Do you have, which statement
16 in front of you?

17 A. Brian.

18 Q. Paragraph two, take a look
19 at that. At any time did Kathy Obenshain ever
20 instruct you to redeposit checks without verification
21 of funds?

22 A. Mm-hmm.

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Hue - Israel

1 Q. Yes; is that what you are
2 saying?

3 A. I'm reading the statement.

4 Q. Oh.

5 A. You are asking me a question
6 about that?

7 Q. Yes.

8 At any time did Kathy Obenshain instruct
9 you to redeposit checks without verification of funds?

10 A. If you cannot reach a bank,
11 which is verification of funds, yes.

12 Q. Okay. Did you ever witness
13 Miss Obenshain instruct any other managers to
14 redeposit checks without verification of funds?

15 A. No.

16 Q. I'm talking about in a
17 general meeting, where you would have conference calls
18 with other GCM's and Miss Obenshain. You participated
19 in that?

20 A. Yes.

21 Q. Did she ever say, I want you
22 to redeposit checks without verification of funds?

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Hue - Israel

1 A. She would say, go through
2 and see what you can get on the system, in her normal
3 flip little way.

4 Q. Okay.

5 (Whereupon an off-the-record
6 discussion was held.)

7 BY MR. ISRAEL:

8 Q. Do you believe that Kathy
9 Obenshain had any influence relating to the decision
10 you be discharged?

11 A. Very little.

12 Q. What is the basis of that
13 belief?

14 A. A conversation I had with
15 Kathy.

16 Q. When was this conversation?

17 A. The day before I was

18 suspended.

19 Q. What did Miss Obenshain and
20 you discuss?

21 A. The firing of Matt Lane, the
22 analysis that I had done, and her response to me that

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Hue - Israel

1 I had done a great job.

2 Q. Well, at the time that you
3 had that discussion with Kathy Obenshain, do you know
4 whether issues relating to check handling in your
5 branch had been brought to Miss Obenshain's attention?

6 A. Yes, I do.

7 Q. How do you know that?

8 A. Because she was referring to
9 Matt Lane and to my analysis, which was in response to
10 an email that she had gotten from corporate, and
11 regarding check handling throughout all of Commercial
12 because there were many, many checks from other
13 offices, not just Dover.

14 Q. Now I'm confused on what you
15 told me. Were there other checks that were
16 problematic so far as corporate was concerned in your
17 office for December of 03 besides Matt Lane's?

18 A. There was a list that was
19 generated by someone in Horsham or wherever that had
20 checks from all offices that were on a spreadsheet.
21 And as I stated earlier, all the GCM's were to give an
22 analysis.

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Hue - Israel

1 Q. For the checks that related
2 to your office, aside from Matt Lane's, were there
3 other problem checks so far as corporate was concerned
4 in December of 03?

5 A. I'd have to give an
6 explanation.

7 Q. Did the explanations you
8 gave for those checks, did Miss Obenshain accept those
9 explanations as satisfactory?

10 A. Yes.

11 Q. What changed between your
12 explanations to Miss Obenshain regarding those
13 problematic checks and your discharge, or your
14 suspension; do you know?

15 A. I really can't answer that.
16 I don't know, other than Ted Fox contacted me the next
17 day.

18 Q. He didn't tell you anything
19 except, as you have described, check handling process
20 was a problem, correct?

21 A. Check handling procedure or
22 process or something to that effect. Exact verbiage,

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Hue - Israel

1 I do not remember.

2 Q. Did anyone describe to you
3 what the problems were before you were separated?

4 A. No.

5 Q. You spoke to Steve
6 Leckerman?

7 A. Yes.

8 Q. Did you understand that he
9 was Ted Fox's boss?

10 A. Yes.

11 Q. I have your January 22, 2004
12 email to him; do you remember writing that?

13 A. I'm sure, yes.

14 Q. You said, "I was placed on
15 suspension with pay due to two concerns: Not pulling
16 checks and recreating DCI on re-deps."

17 MR. HOMER: I want her to
18 look at the document to answer specific
19 questions about the wording in it.

20 MR. ISRAEL: Let me ask you
21 a couple of questions before looking at
22 the document.

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Hue - Israel

1 MR. HOMER: If you are going
2 to ask questions about the document, she
3 has a right to look at the document.
4 You are quoting the thing from her. Who
5 knows if it is in context or not?

6 MR. ISRAEL: Who knows? You
7 can do it yourself. I don't have to
8 give her the document. There's no such
9 rule.

10 MR. HOMER: I disagree.

11 MR. ISRAEL: Show me the
12 rule. I'll be happy to comply.

13 MR. HOMER: She has a right,
14 if you refer to the document, to look at
15 it.

16 MR. ISRAEL: I disagree, but
17 I understand your objection.

18 BY MR. ISRAEL:

19 Q. The two concerns are: Not
20 pulling checks, what does that mean to you?

21 MR. HOMER: I'm going to
22 object unless she has a chance to look

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Hue - Israel

1 A. Was I surprised by the
2 accusations? I had read his accusations from his
3 unemployment hearing, so I was not surprised.
4 Q. Did Kathy Obenshain ever
5 make any racist comments to you?
6 A. About me?
7 Q. Yes.
8 A. No, not that I'm aware of.
9 Q. Did she ever make any
10 comments of a sexually discriminating nature?
11 A. To me?
12 Q. Yes.
13 A. About men or female?
14 Q. That's an interesting
15 question.
16 A. I don't understand your
17 question.
18 Q. Let us start first with
19 females. You don't believe that Kathy Obenshain
20 discriminated against you because of your sex?
21 A. No.
22 Q. Do you believe that Kathy

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Hue - Israel

1 Obenshain discriminated against you because of your
2 race?
3 A. No.
4 Q. Aside from Ted Fox. Do you
5 believe that Ted Fox used or contrived issues
6 regarding check handling to have you fired in
7 retaliation for you complaining about Bill Savage?
8 A. Absolutely, except for the
9 timing.
10 Q. He never said that to you,
11 did he?
12 A. To say, I'm going to
13 retaliate against you?
14 Q. Or anything to that effect
15 that he was going to get back at you or retaliate
16 against you or somehow hurt you as a result of you
17 complaining about Bill Savage?
18 A. No.
19 Q. Did anyone ever report that
20 to you that they had heard that Ted Fox had it in for
21 you because of your reporting about Ted Savage?
22 A. There were rumors that Ted

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Hue - Israel

1 did not like me because of what I did to Bill. That
2 had been circulated for years.
3 Q. Where did you hear those
4 rumors from?
5 A. Numerous employees, past and
6 present.
7 Q. Who would those employees
8 be?
9 A. It would be a very long
10 list. I would have to look at the employee roster.
11 Q. Can you give me one?
12 A. Rick Boudreau.
13 Q. Rick Boudreau told you that
14 he believed Ted Fox had it in for you because of your
15 reporting about Ted Savage?
16 A. No.
17 Q. How did Rick Boudreau report
18 something like that to you?
19 A. He said that Ted was not
20 happy with what I had said about Bill.
21 Q. Anyone else?
22 A. There was a lot of empathy

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Hue - Israel

1 apparently when Bill was terminated.
2 Q. Empathy?
3 A. There were numerous comments
4 from especially the white males of NCO about Bill's
5 comments in that they didn't think it was right for me
6 to be terminated for such comments made in the office.
7 It was a collection agency, for God's sake.
8 Q. Who made those comments?
9 A. Many people did.
10 Q. Can you name any of them?
11 A. You are asking me to go back
12 years and reflect. I would be, I'm paraphrasing the
13 statements, and I don't want to give the answer I'm
14 not a hundred percent sure of.
15 Q. Can you think of one person
16 who made some comments to the effect that Bill Savage
17 shouldn't have been fired?
18 A. Mike Scher had questioned
19 his termination at one time.
20 Q. Okay.
21 A. And that's all I can recall
22 at this point in time. There was just, you know, it

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Hue - Israel

1 is just rumored, second and third hand information
2 that was going through the office. Bill was an icon
3 at that office. And it wasn't until a white male made
4 the complaint that they took it seriously. I made my
5 complaints. No one took it seriously.

6 (Deposition Exhibit Number Hue
7 12 was marked for
8 identification.)

BY MR. ISRAEL:

9 Q. Let me show you what I'm
10 going to mark as Hue number 12. That is what I
11 understand to be your charge of discrimination dated
12 February 3 of 04; is that correct? Is that your
13 signature?

A. Yes.

16 Q. Did you consider your
17 complaints against Mr. Savage to be sexual harassment
18 or racial harassment or both?

A. Both.

20 (A brief recess was taken.)
21 (Deposition Exhibit Number Hue
22 13 was marked for

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Hue - Israel

identification.)

BY MR. ISRAEL:

3 Q. Any changes from your
4 previous testimony?

5 A. What was the previous
6 testimony?

7 Q. Anything that you have told
8 me during the day, any changes?

A. Not at this moment.

10 Q. Okay. In your charge, you
11 wrote, "During a company conference call with all
12 collections managers of Commercial Division throughout
13 the company, the issue of redepositing checks was a
14 topic discussed. Marlow, Shaw, Nickerson were all in
15 attendance with me in response to Dover duplication."

16 Kathy Obenshain stated that she did not
17 want any checks deposited without verification?

A. Mm-hmm.

19 Q. Was that conference call
20 after the March 03 email that we have looked at from
21 corporate?

A. Are we in paragraph three?

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Hue - Israel

Q. I can show you.

2 A. There it is. This call that
3 I'm referring to took place in 2004. And it was on a
4 conference call. It was, I think the 20th of the
5 month. I might be wrong with the date.

6 Q. Right before you were
7 suspended?

8 A. Yes, because she had gotten
9 bombarded with these emails and analysis reports that
10 she wanted us all to do. She at that point made that
11 statement that from this point on, and Mac McKenzie
12 made a statement.

13 Q. Describe for me the process
14 about submitting DCI's for an NSF check; how did that
15 work?

16 A. My administrative assistant
17 would, a DCI is just a check fax. I mean, that's what
18 we called it in our office, not so much DCI. The
19 collector would fill out a form. It was a redeposit
20 form.

21 Q. For a previously submitted
22 check that had been returned to NSF?

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Hue - Israel

1 A. Right. They would create a
2 form in our office called a redeposit form.

3 Q. That redeposit form would be
4 validated by the debtor?

5 A. It would be validated by the
6 collector, and then I would have to sign off on it.

7 Then I would give it to my administrative assistant.

8 And she would follow the process, email, fax up to
9 Horsham to get it posted.

10 Q. But would the debtor sign
11 the DCI form?

12 I guess now I'm confused as to the
13 process. Debtor submits an NSF check?

MR. HOMER: What?

BY MR. ISRAEL:

16 Q. A debtor submits a check
17 that goes NSF.

A. Right.

19 Q. Okay. The DCI form is used
20 to substitute for that NSF check?

A. I think you are confused.

Q. I'm confused. Let us start

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Hue - Israel

1 your bosses in any way criticizing your performance
2 before this suspension?

3 A. No. Actually, when I spoke
4 to Leckerman in December, he gave me a way-to-go-girl
5 pat on the back, as well as did Kathy, many times.

6 Q. Acknowledged that it is hard
7 to find good collection managers; would you
8 acknowledge that?

9 A. I would say it is hard to
10 find good collectors and managers.

11 Q. Do you think you were a good
12 motivator of your collectors?

13 A. I tried to be, and I believe
14 that I was.

15 Q. Do you think you were a good
16 judge at hiring collectors?

17 A. I learned over the years.
18 At first, no. As I gained experience, it got better.

19 Q. What's the hardest thing
20 about being a collection manager?

21 A. The numbers.

22 Q. Meeting the numbers?

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Hue - Israel

1 A. Mm, hmm.

2 Q. You have to say yes.

3 A. Yes.

4 Q. Does that mean it is also
5 hard to motivate your people so that they collect a
6 debt?

7 A. No. Motivation is something
8 I'm good at.

9 Q. So what do you mean, then,
10 the numbers?

11 A. The numbers. When you saw
12 your number that came at you, be it 60, 80, to hit for
13 your month end number, when you saw it as a manager,
14 you are like, oh, God, but you went out there and,
15 rah, rah. That was what you were to do to get to the
16 absolute best.

17 Q. Do you remember firing a guy
18 named Michael Denby?

19 A. Yes.

20 Q. He falsified check
21 information?

22 A. May I read that? I'm not

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Hue - Israel

1 sure why I terminated him.

2 Q. You certainly may. Number
3 13.

4 A. Yes.

5 Q. What did he do wrong?

6 A. He had submitted a check in
7 the amount of a thousand 71 dollars that was
8 unauthorized from a debtor.

9 Q. Was that a check fax?

10 A. Yes. Check fax, DCI.

11 MR. ISRAEL: Did you agree
12 that you were going to produce records
13 relating to Miss Hue's business so we
14 can determine how much the gross income
15 is?

16 MR. HOMER: You are asking
17 me if I did that today?

18 MR. ISRAEL: I'm asking you
19 now. If I did ask you, I'm asking
20 again, did you agree?

21 MR. HOMER: What is it?

22 MR. ISRAEL: I want to show

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Hue - Israel

1 how much income Miss Hue has from her
2 business. I can't tell from these tax
3 returns.

4 MR. HOMER: Yes, we can, if
5 they're available. If we can get them,
6 we will get them to you.

7 MR. ISRAEL: The business
8 would have had to declare income for her
9 as an employee so that she could file a
10 tax return. They're not attached to, I
11 don't see them attached to the tax
12 returns, and W-2's.

13 BY MR. ISRAEL:

14 Q. Let me show you what I
15 understand to be the first page of your journal dated
16 1/21; do you see that? When did you write that? What
17 is that, plaintiff Bates number 89?

18 A. 1/21.

19 Q. You wrote that on
20 January 21?

21 A. That's what it says.

22 Q. Can you --

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1 commission, and I also received a bonus. I do not
2 understand the rest of your question.

3 Q. You testified that
4 collectors who improperly were paid on an NSF check --

5 A. Mm-hmm.
6 Q. -- held that money until it
7 was backed off the next month?

8 A. Mm-hmm.
9 Q. Was there a similar dynamic
10 with your pay?

11 A. Well, if I got a commission,
12 it would be a miracle. So it didn't affect me as GCM
13 whatsoever. I believe I got very little commission,
14 but bonus for contest.

15 Q. You would qualify for a
16 bonus or a contest based upon end of month numbers,
17 correct?

18 A. No.
19 Q. Based upon end of quarter

20 numbers?
21 A. Sometimes. Based upon post
22 date numbers, based upon three month postdate numbers,

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1 based upon who had the happiest office, stuff.

2 Q. Were those bonuses ever
3 affected by the inclusion of NSF checks that
4 eventually would later be backed off?

5 A. No.

6 Q. In paragraph 16 of your
7 complaint you allege that defendant's management made
8 racially charged comments including one regarding the
9 number of black employees at the Dover office to the
10 effect that the office "looks like a Tarzan movie."
11 Who made that comment? Savage?

12 A. Savage had made that
13 comment. Second hand. I had heard that Mike Scher
14 had made that comment.

15 Q. Did you hear Mike Scher make
16 that comment?

17 A. No, I didn't. I said second
18 hand, I heard that Mike Scher had made that comment.
19 And I believe Kim Marlow said she had heard that
20 comment. Of course, many people would not come to me
21 with such stuff. It wouldn't be wise.

22 Q. Did you hear Savage make the

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1 comment?

2 A. I did not hear Savage
3 personally make the comment.

4 Q. Did you ever hear anyone
5 personally make the comment?

6 A. He never made the comment to
7 me.

8 Q. No. Did you --

9 A. He did state.

10 Q. That wasn't my question.

11 Did you ever hear anyone in management make that
12 comment?

13 A. I've heard, yes.

14 Q. Who was that?

15 A. I was going to say Savage
16 had made a comment, but it wasn't the Tarzan movie.

17 He had said it looked like some kind of jungle bunny
18 something he had made, comment about African Americans
19 in the office. I believe Rick Boudreau made those
20 comments, I believe.

21 Q. In your complaint you allege
22 that Savage is or was the friend and mentor of Ted

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1 Fox?

2 A. Yes.

3 Q. Why do you believe that,
4 that was he was the friend or mentor?

5 A. When Ted was brought to our
6 office initially, he was under the mentorship of Bill
7 Savage. When Bill introduced him as a person from
8 corporate to all of us in a general employee meeting
9 many years ago, and that he was, I guess on a quick
10 start or quick, an executive program that Ted was on,
11 and etcetera. That's how he announced him to them.
12 They went and made trips together, etcetera, etcetera.

(A brief recess was taken.)

14 BY MR. ISRAEL:

15 Q. How often do you see anyone
16 relating to psychiatric problems?

17 A. Honestly. Once a week I'm
18 on what they call a hot list or lot line on a daily
19 basis because I have been quite depressed. But once a
20 week with my psychiatrist.

21 Q. And are there any other
22 stressors in your life besides the issues relating to

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1 NCO?

2 A. This issue has affected my
3 life in every capacity. My marriage.

4 Q. Okay.

5 A. So I would say it has
6 filtered into every aspect of my life.

7 Q. Are there any other
8 stressors that are independent that have affected you;
9 death of a parent, bankruptcy, things like that?

10 A. No.

11 Q. Just this?

12 A. Just this.

13 Q. What prognosis, if any, do
14 you have?

15 A. I have post traumatic stress
16 disorder.

17 Q. That's a diagnosis. I am
18 asking for a prognosis. Is anyone telling you that
19 you are going to get better?

20 A. I'm sorry to be so ignorant.
21 I'm in therapy with a psychiatrist once a week. He is
22 quite concerned, especially during this deposition

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1 period, that I was on a suicide watch. I've had his
2 number, and he has called me three times and made sure
3 that I'm okay. This has caused me a lot of shame,
4 embarrassment. I don't understand. I loved NCO. If
5 I get emotional, it is because I was very proud of
6 what I did. If I did anything wrong ever, Kathy
7 always would call me and reprimand me. I would have
8 corrected that. That's the relationship that we had.
9 She was hard. I didn't mind that she called me up and
10 cussed me. She did it on a regular basis. When all
11 this happened, it, being the first African American
12 female that rose to this position, I was devastated,
13 hurtful, and shamed. It was hurtful and.

14 Q. Do you think Kathy is an
15 honest person?

16 A. I am sure you have heard, I
17 think she's a bitch.

18 Q. Is she honest? A lot of
19 people can be difficult. It doesn't make them
20 dishonest.

21 A. Is she a bitch? Is she an
22 honest bitch? No, she's not honest. No, she's not

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1 honest.

2 Q. Until this time, she treated
3 you or did not treat you with respect?

4 A. What you and I might
5 consider respect is not what Kathy might consider
6 respect. She would call you up, cuss you out, call
7 you a crazy bitch, and hang up on you. But she
8 respected you. That's just how she was.

9 Q. Right. Let me ask it this
10 way. Do you believe it would be out of character for
11 Kathy Obenshain to blindly follow instructions from
12 Ted Fox and fire you?

13 A. I think it was Ted that did
14 the firing. I think it was under his --

15 Q. Right.

16 A. -- guidelines. I think she
17 would follow Ted's instructions because she was under
18 the gun over checks from corporate. As she stated,
19 heads were going to roll, and it was not going to be
20 hers. Yes.

21 Q. Why would heads all the
22 sudden start to roll relating to checks? What changed

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1 that would cause that?

2 A. I was not, I am not in
3 Horsham or in Metairie. I do not know what prompted
4 this internal audit of NCO. I was not at that
5 executive level.

6 Q. How many checks in your
7 office in December were improper, aside from Matt
8 Lane's, in your opinion?

9 A. In my opinion, that were
10 improper, were Matt Lane's. That was three, of Matt
11 Lane's, I believe.

12 Q. Right. None others?

13 A. That were improper in my
14 opinion, were Matt lane's. That was three.

15 Q. I'll pass the witness.

EXAMINATION BY COUNSEL FOR THE PLAINTIFF
BY MR. HOMER:

18 Q. Miss Hue, towards the end of
19 your testimony, you were asked questions about
20 stressors in your life, and you indicated I think
21 that, at least currently, the NCO problem is the main
22 stressor?

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EXHIBIT 5

04/27/02 07:52 FAX

NCO GROUP INC

003/005

Hue 5

as 04-13-02
ENTERED**NCOgroup**

Employee Change Authorization

Org. mmiLocation: DOVER-608

Name

Hue Valerie

Social Security Number

221-56-1357

Effective Date

4/18/02

Salary/Job Change

From	23.08	Annual	48,000	% of Increase	Job Title	1.16 Manager	Job Code	24	Exemption-Exempt	Grade
To	28.85	Hourly	60,000	25%	Job Title	GCM	Job Code		Exemption-Exempt	Grade
From	Office Location	Cost Center	Hours	PT/FT	Non-Standard Workweek Differential					
To	DOVER	608	Hours	PT/FT	Straight Nights <input type="checkbox"/> Sunday <input type="checkbox"/> Sat & Sunday <input type="checkbox"/>					

Name Change

From	Last Name	First Name	MI	Marital Status Change <input type="checkbox"/> Single <input type="checkbox"/> Married
TO:	Last Name	Full First Name	MI	

Address Change

Street Address	Apt. No.	City
State	Zip	New Phone No. & Area Code ()

Remarks

Reason for Salary Change (Promotion/Demotion/Merit/Salary Adjustment)

From Mid Level Manager to GCM effective
immediately with Bonus Pool of 3500
for April Fees - starting in May new Bonus
Pool will be 5000

Approvals

Approvers Signature	Date	Human Resources/Payroll	Date
<u>[Signature]</u>	<u>4/19/02</u>	Signature	
Print Name		Print Name	

CEO Salary Adjustment Approval

APPROVED
4/23/02

EXHIBIT 6

Hue 6 COPY 1

IN THE MATTER OF)
)
VALERIE D. HUE,)
)
Claimant,)
)
v.)
)
NCO FINANCIAL,)
)
Employer.)

Conversation transcribed from tape-recording
by Cheryl A. Anthony, Court Reporter, hearing, date, and
time unknown.

PRESENT:

MR. RICK BOUDREAU

MR. PHIL WEAVER

MR. TED FOX

ORIGINAL RETAINED BY JEREMY HOMER, ESQUIRE

ANTHONY REPORTING
PO Box 234
Dover, Delaware 19903
(302) 674-8384

PLAINTIFF DATE NO.

000124

1 MR. BOUDREAU: Whew. Let me see. Where w
2 I? I know wanted to get with Phil, and I was going to
3 tell him to make sure that you were there on the squaw
4 box so we could all chat together.

5 UNKNOWN VOICE: Okay. Hold on. Hold on a
6 second. He's just outside my door.

7 MR. BOUDREAU: Yeah, no problem.

8 UNKNOWN VOICE: Hold on.

9 Phil?

10 Rick?

11 MR. BOUDREAU: Hey.

12 UNKNOWN VOICE: I have Phil right here.

13 MR. BOUDREAU: Hey Phil.

14 MR. WEAVER: Hey, buddy.

15 MR. BOUDREAU: How are you? How are you?

16 MR. WEAVER: Good.

17 MR. BOUDREAU: I just wanted a few moments,
18 just to kind of -- I just got to combination vent,
19 combination pour my heart out here to try to understand,
20 or at least get some direction or at least smack me into
21 a sense of focus and direction.

22 Bill is driving me fucking crazy. God, that
23 felt better. Okay. You got his letter earlier in the
24 month?

PLAINTIFF BATEND.

1 MR. WEAVER: Yeah. And what you don't know
2 Rick -- because I didn't just to circle back around to
3 you -- but once I received that letter, I kind of went
4 into a spin.

5 MR. BOUDREAU: Okay.

6 MR. WEAVER: And I called Bill and read him
7 the riot act and told him in no uncertain terms that -
8 you know, you don't report to him and he doesn't, you
9 know, direct or ask you for action plans or, you know,
10 anything like that, that you guys are peers. And, you
11 know, while there is a dotted line there, because, you
12 know, we've got to take care of clients, that, you know
13 you report to Peter now --

14 MR. BOUDREAU: Right.

15 MR. WEAVER: -- first and foremost, and, you
16 know, me so -- and he was clear on that.

17 MR. BOUDREAU: Right.

18 MR. WEAVER: He was clear on that and was -

19 MR. BOUDREAU: So that I guess that I would
20 throw out this proposition that I gave to -- when he
21 shows up on my LB meeting this morning, he wants LBs to
22 now provide him with their daily hit list.

23 MR. WEAVER: What?

24 MR. BOUDREAU: The meeting that we had this

1 morning with the --

2 MR. WEAVER: Wait, wait, wait. Stop.

3 MR. BOUDREAU: Okay.

4 MR. WEAVER: You were having an LB meeting

5 MR. BOUDREAU: Yeah, which he attended,
6 which I'm fine; you know, take your input, blah, blah,
7 blah. I don't mind. Sit in and you want to critique
8 me, fine. Let's go. That's fine. I have no problem
9 with, you know, peer critique, that type of a deal.

10 MR. WEAVER: All right. And in that
11 meeting --

12 MR. BOUDREAU: He asked all collect -- all
13 LBs to provide him daily with a copy of the hit list
14 that they would be turning in to me to be turning in to
15 him.

16 MR. WEAVER: And what was his purpose for
17 that?

18 MR. BOUDREAU: Obviously, he'd be monitorin
19 and watching them and monitoring and watching me. I'm
20 not quite sure. He didn't really lay out --

21 MR. WEAVER: How about the date for
22 promises? I mean what are you talking about here? You
23 daily projection sheets?

24 MR. BOUDREAU: Yes.

1 MR. WEAVER: Did he tell you he was going
2 to do this?

3 MR. BOUDREAU: No. He just threw it out in
4 the meeting.

5 MR. WEAVER: Yeah. Well, then see? I mean
6 he should have come to you for that. Rick, you know, I
7 you don't mind, why don't you copy me on your daily hit
8 list so I can review them and we know why --

9 MR. BOUDREAU: Sure. I know. I --

10 MR. WEAVER: But not in front of the
11 collectors.

12 MR. BOUDREAU: Sure.

13 MR. WEAVER: -- unless you are aware of it,
14 unless it's the two of you together.

15 MR. BOUDREAU: Right. I mean that was
16 the -- because my response would have been: No. I give
17 you my fucking projections on a daily basis. You know
18 how to go in behind me and watch my CMA, blah, blah,
19 blah, you know. But he decides he that wants to be part
20 of the process which, you know, is just fucking
21 bullshit.

22 So then we have our quarterly awards
23 meeting. We coincided it with Kirk Rochell leaving
24 today. Kirk goes and tells about how they won a sales

1 award, you know, for the quarter and, you know, the
2 collectors for the sales cup, to which he made some
3 catty little sideline comments about how dismal
4 collections had been.

5 MR. WEAVER: Who? Kirk did?

6 MR. BOUDREAU: No, Bill did, in the midst of
7 the whole fucking branch meeting about the collector of
8 the quarter sales cup, and all of this other blah, blah
9 And he is applauding sales, you know, for the collector
10 cup -- for the sales cup, rather. And at the same time
11 he is making little side, under-breath comments about
12 the dismal performance of fucking collections.

13 And I am saying to myself: You know, what
14 the fuck? First off, do you think the collectors are
15 really appreciating this? They know how shitty they
16 did. And you now you are telling the fucking sales
17 people how shitty they did. A good place to do it,
18 Bill. You know, (unintelligible) and you are fucking
19 bad-mouthing the collections department.

20 But then he follows it up with: Oh, and we
21 need to give them all the assistance that they can get.
22 Okay, because we don't have enough fucking programs in
23 place, action plans, follow-ups, daily schedules that we
24 already follow that we attempt to adhere to. So now

1 he's got every freaking salesman sending me fucking
2 print screens.

3 And not that I don't have any problem with
4 sales managers sending me print screens that they see
5 accounts that have fallen by the wayside or a client
6 called and wanted some additional work, you know, that
7 type of thing.

8 I've got now salesmen on the freaking -- you
9 know, commenting on the accounts. Hey, do you think an
10 ADL is appropriate here? And how come this hasn't been
11 called in three weeks? And what kind of performance is
12 this for my client? And they're freaking writing these
13 notes in the collections screens --

14 MR. WEAVER: What?

15 MR. BOUDREAU: -- sending me piles of
16 fucking print screens. And Bill said: That's what I
17 want you to do. I want you to help collections, because
18 they can't get their job done. That is the essence of
19 what he said. Collections needs your help. So if you
20 see any accounts that are not being worked properly and
21 there's lost fee opportunity, why don't you get print
22 screens, give them to your managers? And I have been
23 getting fucking -- you know, small, fucking books of
24 them for the last three or four days. He's just fuckin

1 driving me --

2 MR. WEAVER: He'll be reeled back in, Rick

3 MR. BOUDREAU: No, and -- Are we in a clos
4 door --

5 MR. WEAVER: Yes.

6 UNKNOWN VOICE: Yes.

7 MR. BOUDREAU: All right. Bill, you know
8 Peter, I don't know if you know Bill. Phil, obviously,
9 you know Bill. He's a real colorful character.

10 MR. WEAVER: I have met him.

11 MR. BOUDREAU: He's -- you know, we were in
12 the midst of a meeting. They were paging -- I guess yc
13 were paging Mike Scher earlier, at around 11:30, quarte
14 to 12.

15 MR. WEAVER: Yeah, probably.

16 MR. BOUDREAU: So he opens up the door,
17 because they page him -- Mike Scher, six-oh, blah, blah
18 He opens the door. He said: Hey, do you think there
19 might be something going on important in here? What's
20 the matter with you?

21 Great, the freaking collector of sales all
22 having a hoopla all at the freaking expense of the
23 receptionist. It's like, how embarrassing is this for
24 this poor girl? Mind you, she knew there was a meeting

1 going on, probably shouldn't have been paging. But it
2 was because you guys were calling and, obviously, there
3 was a sense of importance and urgency to that and that'
4 probably why she was doing that.

5 MR. WEAVER: We had a client issue, and we
6 didn't know that there was a meeting going on.

7 MR. BOUDREAU: No, and the receptionist, you
8 know, passed the message on. But more importantly, I
9 know Bill's sideline crack was really appropriate. And
10 you know, he does these things.

11 MR. WEAVER: No, we don't do that in front
12 of other employees, you know.

13 MR. BOUDREAU: I mean Bill is a colorful
14 character and will certainly tell you at any point in
15 time how much of it he is. But he's a loose cannon
16 sometimes, and I mean that was a little awkward.

17 I even had a gal just recently left us. He
18 name was Audrey Williams. She was my TPA person for a
19 little while.

20 MR. WEAVER: Yeah.

21 MR. BOUDREAU: And I moved her into admin,
22 and she said -- you know, she was struggling, going
23 through it bits and pieces.

24 But you know, Bill just decided to target

1 her. And at one point in time, he walks by her door,
2 bangs on the window, because we've got these little
3 fishbowl windows type deal. He bangs on the door. And
4 he's halfway down the hallway and says to Val: Hey, do
5 you think you can get that fat ass to wake herself up?

6 It's, you know, like a day and a half later:
7 that Audrey put in her notice. Now, did she talk all
8 about that?

9 MR. WEAVER: Did you hear that first person

10 MR. BOUDREAU: No, I did not.

11 MR. WEAVER: Did Valerie?

12 MR. BOUDREAU: Valerie did --

13 MR. WEAVER: Huh?

14 MR. BOUDREAU: Valerie, I believe, will give
15 you that first person.

16 MR. WEAVER: I want her to document that.

17 MR. BOUDREAU: You know, I even made a point
18 of telling her: You need to go to talk to Bill.

19 MR. WEAVER: No, I don't want her to go to
20 Bill. I want her to document that to me.

21 MR. BOUDREAU: It's shit like that. And
22 there are a couple of other little ditties that I'm not
23 at liberty right now to talk about. But --

24 MR. WEAVER: Like what? I mean what --

1 MR. BOUDREAU: I'm talking --

2 MR. WEAVER: What are you talking about?

3 MR. BOUDREAU: It's just stupid shit that
4 gets around and says. I want to make sure nobody is
5 around hearing this stuff.

6 But he on occasion will use racial epithet
7 inside offices that probably are not even called for.
8 But more importantly, he does it in front of producers
9 It gets a little, you know, stupid.

10 MR. WEAVER: Like what? Like what did he
11 say?

12 MR. BOUDREAU: Like, you know, when he was
13 talking about Audrey, you know, how long is it going t
14 take for us to get this N word, you know, back on the
15 phone and woken up?

16 MR. WEAVER: Who did he say that to?

17 MR. BOUDREAU: Well, he said that definite
18 to me and Eric Shaw.

19 MR. WEAVER: All right. I need that
20 documented.

21 MR. BOUDREAU: I was like: Hey, how stupid
22 is -- Bill, hey, come on. I mean this is not even cool.

23 MR. WEAVER: Hold on, Rick. I need to get

PLAINTIFFS' EXHIBIT 24 Ted down here.

000134

1 UNKNOWN VOICE: Hold on a second. That's
2 off the charts. That will get us in a lot of trouble.

3 MR. BOUDREAU: You know, it's like -- I
4 don't know. He's just like driving me freaking crazy,
5 and I don't know how to -- Look, I've got to -- I've go
6 to work on that.

7 MR. WEAVER: Yeah, this is Ted.

8 (Unintelligible).

9 MR. WEAVER: Audrey Williams, GPA collector
10 (unintelligible) good boy, bad boy, whatever, that --
11 how long ago, Rick?

12 MR. BOUDREAU: Let's see. She left us two
13 weeks ago, on a Friday.

14 MR. WEAVER: A couple of days before she
15 quit?

16 MR. BOUDREAU: Absolutely. You know, it
17 was like on that Tuesday or Wednesday, because it was
18 like -- you know, it was less than a week after that
19 event.

20 MR. WEAVER: -- down the hall, raps on her
21 window --

22 MR. BOUDREAU: Yeah.

23 MR. WEAVER: -- yells at Val: Hey, do you
24 think we can get this fat ass on the phone?

1 MR. BOUDREAU: Right.

2 MR. WEAVER: It was --

3 MR. BOUDREAU: No. Get the fat ass awake
4 and on the phone.

5 MR. WEAVER: Awake and on the phone.

6 MR. BOUDREAU: Yeah. And on occasion --

7 MR. WEAVER: Eric Shaw, who is a producer
8 and Rick, what was the racial thing?

9 MR. BOUDREAU: Well, you know, he came in
10 the office and said: What do you think there is a
11 chance of getting the fat --

12 (Unintelligible).

13 MR. BOUDREAU: -- N word, you know, awake
14 enough to be able to dial the phone?

15 MR. WEAVER: In front of a producer.

16 MR. FOX: How many people? How many? Jus
17 one?

18 MR. BOUDREAU: It was just me and Eric. H.
19 came -- I was in Eric's office doing a (unintelligible
20 and he came in when he saw me in there and --

21 MR. WEAVER: Now, first of all, this whole
22 meeting thing that happened today --

23 MR. BOUDREAU: Yeah.

24 MR. WEAVER: -- go back over that, Rick.

1 MR. BOUDREAU: Yeah. I mean he was
2 obviously applauding his collections, his sales
3 department, for having achieved their sales cup, to
4 which he then threw a couple of little side chops about
5 the fact that collections obviously had a dismal month
6 and that it is the salespeople who need to take some
7 responsibility to that and help collections along.

8 MR. WEAVER: Right, in half.

9 MR. BOUDREAU: Yeah. And to the end that w
10 need -- they need to be able to watch for those account
11 that they think they can assist us in.

12 So now I've got, you know, a parade of
13 collectors, of salespeople giving me commentary on when
14 I should work an account. It's like they've got nothin
15 else better --

16 MR. WEAVER: Well, why (unintelligible?)

17 MR. FOX: What direction is the
18 (unintelligible)?

19 MR. WEAVER: On the collectors notes, not
20 just the --

21 MR. BOUDREAU: Right. I've already got a
22 couple of salesmen that, you know, I've got -- you know
23 that have had issues, Bob Garrett, in particular. And
24 I've had --

1 MR. WEAVER: (Unintelligible) racial
2 epithet --

3 MR. FOX: That is not our concern.

4 MR. WEAVER: That's way off the charts.

5 MR. BOUDREAU: I've got salesmen that are
6 now, you know, deciding they know best. I had one sal
7 kid that came in here today, and he did -- and this is
8 probably a customer service deal, although I'm not
9 really certain that the salesman has the right to pick
10 and choose this thing -- because then it says: Oh,
11 well, look, you took the account. It was a disconnect
12 telephone account number, SOS, metroed. And we sent o
13 a letter, closed it in about eight or nine days. It
14 was an 1,100, \$1,200 deal.

15 About three weeks later, the client gets a
16 check. Timing it to the time that the letter went out
17 until the time the client got it, it made some sense.
18 But he walked in and said: Oh, look at that. You guys
19 only worked it for eight days, so I'm not going to bill
20 the client.

21 MR. WEAVER: I never circled back around
22 with Rick and told him that Bill and I talked about his
23 memo to Rick earlier this month.

24 But this morning, Rick had a large balance

1 meeting with his large balance collectors. Bill wants
2 to sit in on it. Rick's fine with that.

3 Bill tells the collectors, without talking
4 to Rick about it, in the fucking LB meeting, effective
5 immediately, he needs to start forwarding me all of yo
6 daily hit lists.

7 MR. FOX: After your conversation?

8 MR. WEAVER: Yeah. This is today.

9 MR. FOX: Without telling Rick about it
10 beforehand? I mean --

11 MR. BOUDREAU: Yeah. There is another one
12 that I'm just thinking of. And I kept thinking -- I'm
13 trying, because I know Val's run into little, awkward
14 issues with Bill pointing out her assets, if you will.

15 MR. WEAVER: About what?

16 MR. BOUDREAU: Her assets, her breasts.

17 MR. WEAVER: Her --

18 MR. BOUDREAU: Not in so many words, but
19 just her breasts.

20 MR. WEAVER: Her breasts?

21 MR. BOUDREAU: Her breasts. You know, the
22 importance of --

23 MR. WEAVER: That comment wasn't towards
24 her. It was towards another employee.

PLAINTIFF DATE

1 MR. BOUDREAU: No, that was directed at he.
2 That was -- Valerie relayed the story about how Bill w
3 so impressed with her, you know, assets.

4 (Unintelligible).

5 MR. WEAVER: Now, that was towards one of
6 Val's employees.

7 MR. FOX: Okay. Because, you know, Val and
8 Bill have had a joking relationship that their -- I
9 don't know if they were joking or not -- but they are
10 related.

11 MR. BOUDREAU: Yeah, they're related,
12 exactly.

13 MR. FOX: (Unintelligible) apparently, I
14 mean there's black heritage in Bill's family, going bac
15 to the Civil War time or whatever.

16 MR. BOUDREAU: And at one point in time,
17 Brian had had --

18 MR. FOX: Don't get comfortable with
19 somebody. This is what you get.

20 MR. WEAVER: Okay. Again, I want the -- I
21 want it documented. I want some screen prints, althoug
22 the documentation from you and Eric on the racial
23 thing --

24 MR. BOUDREAU: Right.

1 MR. WEAVER: -- and from Val on the fat as:
2 thing.

3 MR. BOUDREAU: Right.

4 MR. WEAVER: I need that stuff documented
5 and forwarded here first thing in the morning.

6 MR. FOX: Very good.

7 MR. BOUDREAU: I mean it's just -- and you
8 know, it's just a -- I mean I'm all concerned,
9 obviously. It's all a concern, and it's a problem.

10 MR. WEAVER: Rick?

11 (Unintelligible).

12 MR. WEAVER: Rick?

13 MR. BOUDREAU: Yeah, I'm listening.

14 MR. WEAVER: Obviously, you know, this is a
15 serious issue. And you know, I guess my question is I
16 understand you are a little bit sidewhipped today
17 because of the quarterly meetings. But why didn't you
18 bring this to me when it was happening? I mean you know
19 that those types of comments can get this organization
20 in so much trouble.

21 MR. BOUDREAU: And it has -- and it has
22 percolated over the last two weeks. And I am telling
23 you, it just absolutely just blew up on me today. I
24 just --

1 MR. WEAVER: Yeah, but Rick --

2 MR. BOUDREAU: I know, I know, Phil, I know
3 I know; no excuse.

4 MR. WEAVER: All right. Are you intimidated
5 by him a little bit?

6 MR. BOUDREAU: You know Bill. It's a hard
7 sell. He wants it his way, or fuck you becomes his
8 response, you know. This is the way it gets done. He
9 has no problems in telling us, you know, the way he
10 feels in no uncertain terms. And sometimes when he
11 doesn't want to listen, he absolutely does not want to
12 listen. You know, no amount of logic or reason is going
13 to work with him.

14 MR. WEAVER: Do I really want this?

15 MR. BOUDREAU: That is crazy. I mean, you
16 know --

17 MR. WEAVER: Hey, Rick.

18 MR. BOUDREAU: I mean I had better
19 communications with Ron.

20 MR. WEAVER: How close -- oh, God.

21 MR. BOUDREAU: A comical figure.

22 MR. WEAVER: How close is Eric Shaw to Bill

23 MR. BOUDREAU: Other than the fact that the
24 have been here for forever together?

1 MR. WEAVER: Well, I mean if we ask Eric
2 Shaw to document that --

3 MR. BOUDREAU: He even came around the
4 corner after that. He said: Man, you've got to talk to
5 Bill. He can't be saying shit like that.

6 MR. WEAVER: All right, then good. I want
7 it documented from Eric. I want it separately
8 documented from you. And I want Valerie to document the
9 other incident and also any other regarding her
10 uncomfortableness with his comments about her assets.

11 MR. BOUDREAU: Yeah.

12 (Unintelligible).

13 MR. WEAVER: And yes, definitely don't say
14 anything to anybody else.

15 MR. BOUDREAU: I know. You know, there are
16 other incidents with Brian. And you know, we had had a
17 series of African-American, if you will, folks
18 interviewing here. And Bill asked him on the side -- he
19 says: Now, what's the chance that you are filming a
20 Tarzan movie here, you know?

21 MR. WEAVER: Who did he say that to?

22 MR. BOUDREAU: Brian.

23 MR. WEAVER: What?

24 MR. BOUDREAU: Bill had said that to Brian.

PLAINTIFF STATEMENT.

000143

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1 Bill had said that to Brian a couple of weeks back.

2 MR. WEAVER: Now, Rick, before you have
3 everybody document this, I am going to reach out to
4 HR --

5 MR. BOUDREAU: Yeah.

6 MR. WEAVER: -- because I don't know
7 necessarily that it's in our best interest -- and Ted
8 makes a good point to document and go on record with a
9 of this shit that is going to get us in a great deal of
10 trouble if a producer came back us.

11 MR. BOUDREAU: Right.

12 MR. WEAVER: But I mean I think it is all
13 very clear.

14 (Unintelligible).

15 MR. WEAVER: I just want to make sure, tha
16 yeah, I am asking for it in the right manner.

17 MR. BOUDREAU: Right.

18 MR. WEAVER: It may just be -- and I don't
19 know. I just -- I'll reach out in the morning --

20 MR. BOUDREAU: Yeah.

21 MR. WEAVER: -- and then call you back and
22 give you some direction.

23 MR. FOX: I don't want anything said to Bil
24 either.

1 MR. BOUDREAU: No, no, no, fuck, no. I me
2 him and I had a --

3 (Unintelligible).

4 MR. BOUDREAU: -- increased (unintelligible
5 of doing and the results of his sales manager and
6 collective sales people sending all of this shit, he's
7 just -- it's become a Spanish inquisition.

8 MR. WEAVER: So you are not going to go to
9 Eric. You're not going to go to Val. You are not goi
10 to go to anybody until you hear back from me.

11 MR. BOUDREAU: We'll work it out in the
12 morning.

13 MR. WEAVER: I'm sorry?

14 MR. BOUDREAU: I said until we work it out
15 in the morning.

16 MR. WEAVER: Until you hear back from me.

17 MR. BOUDREAU: Very good.

18 MR. WEAVER: And Rick?

19 MR. BOUDREAU: Yes.

20 MR. WEAVER: Don't, you know -- You know
21 what is right and what is wrong.

22 MR. BOUDREAU: I know.

23 MR. WEAVER: Don't let it all build up. As
24 issues come up, communicate with us.

1 MR. BOUDREAU: I know. That's always the
2 direction I need to go. And that's why I said I had to
3 make the call, because today was just the -- just the
4 top of it all.

5 MR. WEAVER: Yeah, but God damn. I mean if
6 we have somebody making those types of litigious
7 statements in our office, don't wait until it's
8 something that you happen to take personal to bring up
9 those other issues.

10 MR. BOUDREAU: I know. They were all -- I
11 mean yeah. It's been like two weeks, and it's just out
12 of control and --

13 MR. WEAVER: (Unintelligible) man. I am
14 counting on you for you, you know --

15 MR. FOX: (Unintelligible).

16 MR. WEAVER: Yeah, that high level of, you
17 know, knowledge (unintelligible) and, you know --

18 (End of tape-recorded conversation.)
19
20
21
22
23
24

1 State of Delaware)
2 Kent County)
3

4 CERTIFICATE OF REPORTER

5 I, Cheryl A. Anthony, Delaware Certified
6 Shorthand Reporter, Cert. No. 107-PS, and Notary Public
7 in the State of Delaware, do hereby certify that the
8 foregoing is a true and correct transcript, transcribed
9 from tape-recording to the best of my ability, in the
10 matter of Valerie Hue v. NCO Financial, date of
11 tape-recording unknown.

12 I further certify that I am not counsel,
13 attorney, or relative of either party, or otherwise
14 interested in the event of this proceeding.
15

16
17
18
19
20
21
22
23
24
Cheryl A. Anthony
Delaware Certified
Shorthand Reporter
Cert. No. 107-PS

DATED: _____

Exhibit E

Bill Savage, general manager
Milliken-n-Michaels
800 Silhouette Blvd
Dover, De. 19941

Re: Resignation

Dear Bill,

Effective 11/10/98, I resign my position
with Milliken-n-Michaels.

With life comes challenges for one to
conquer and my latest challenge allows me
to expand and grow my personal goals.
These goals would seem unattainable if not
for the M+M experience and discipline.

I am grateful to Mike, Trey and you for
believing and trusting me. The road hasn't
always been smooth but each obstacle has pushed
me just a little bit further to better understand
and prepare myself for what lies ahead.

One day my mother might just call you again
and I pray you answer favorable. Until Then...

I Remain,

Cuz
Valerie Hie 11/98

Exhibit F

Kimberly Marlow

Page 1

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

VALERIE HUE,)
)
Plaintiff,)
)
v.)
) Civil Action No.
NCO FINANCIAL SYSTEMS, INC.,) 05-225-KAJ
a Delaware corporation,)
trading as NCO FINANCIAL)
COMMERCIAL SERVICES,)
)
Defendant.)

Deposition of KIM MARLOW taken pursuant
to notice at the law offices of Parkowski, Guerke &
Swayze, P.A., 116 West Water Street, Dover, Delaware,
beginning at 9:15 a.m. on Wednesday, March 8, 2006,
before Robert Wayne Wilcox, Jr., Registered Professional
Reporter and Notary Public.

APPEARANCES:

JEREMY W. HOMER, ESQ.
PARKOWSKI, GUERKE & SWAYZE, P.A.
116 West Water Street
Dover, Delaware 19903
for the Plaintiff,

ELIZABETH K. FITE, ESQ.
SESSIONS, FISHMAN & NATHAN, L.L.P.
15316 North Florida Ave - Suite 100
Tampa, Florida 33613
for the Defendant.

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Kimberly Marlow

2 (Pages 2 to 5)

Page 2

Page 4

1 ALSO PRESENT: VALERIE HUE
 2 DINA SHAALTIEL, NCO Financial Commercial
 3 Services

4 KIM MARLOW,
 5 the witness herein, having first been
 6 duly sworn on oath, was examined and
 7 testified as follows:

8 BY MR. HOMER:

9 Q. Good morning. My name is Jeremy Homer. I'm
 10 the attorney representing Valerie Hue in this matter.
 11 This is the case of Valerie Hue v. NCO. It's March 8,
 12 2006, a little bit after 9 a.m., and we're at our Dover
 13 offices in Delaware.

14 Ms. Marlow, what's your address and
 15 phone number?

16 A. My address is 170 Cantwell Drive, Dover,
 17 Delaware. My phone number is (302) 677-0558.

18 Q. Okay. During the course of this deposition,
 19 I'm going to be asking you a series of questions. If you
 20 don't understand the question, I'd ask that you just make
 21 me repeat it --

22 A. Okay.

23 Q. -- or rephrase it to make sure that you don't
 24 try to answer a question that you don't understand.

1 Q. This was after you graduated from high school?

2 A. During and after graduation.

3 Q. Okay.

4 A. I worked part-time for a little restaurant.

5 At the same time, I was working at the beauty -- at a
 6 beauty shop. Then I went to work for Masten Lumber
 7 Company, which went out of business.

8 Q. What time period was that in?

9 A. That was -- gosh. That was 20 years ago.

10 Q. Okay. You don't know if --

11 A. I worked there for four years.

12 Q. Okay.

13 A. And then they went out of business.

14 Q. Okay.

15 A. And then I worked for -- I'm trying to think
 16 if it was before or after that. I worked for Metal
 17 Masters in Smyrna. It was a part-time position. That
 18 wasn't full-time. So I tried to find a full-time job and
 19 went to work for J.C. Hammond. And I did collections --
 20 a little bit of collections there. Not really. It was
 21 just kind of like the girl Friday there. And then I came
 22 to NCO.

23 Q. Okay. When did you start at NCO?

24 A. In '97.

Page 3

Page 5

1 A. Okay.

2 Q. Is that clear?

3 A. Sure.

4 Q. Is there any reason why your ability to answer
 5 the questions today would be impaired for any reason?

6 A. No.

7 Q. Okay. Are you on any medication, for example?

8 A. I'm on medication, yes.

9 Q. But it wouldn't affect your ability to answer?

10 A. No.

11 Q. Okay. What's your educational background?

12 A. I graduated from high school, did a technical
 13 college course. And that's basically it.

14 Q. Okay. Could you just briefly run through your
 15 employment history from the time you got out of high
 16 school to the present? For each position you have, just
 17 briefly tell me how long you were at the job and what
 18 your job duties were.

19 A. Right out of high -- while I was working -- in
 20 high school I worked for a beauty shop, because that's
 21 what my trade was.

22 Q. Okay.

23 A. And I worked for a couple of beauty shops, as
 24 a matter of fact. And maybe four years of that.

1 Q. Okay. Was it named NCO at that time?

2 A. No. It was Milliken & Michaels.

3 Q. Okay. Have you worked for that entity ever
 4 since 1997, either Milliken & Michaels or NCO?

5 A. Yes. I did.

6 Q. Okay.

7 A. Yes. I am.

8 Q. Could you, from the time that you worked at
 9 Milliken & Michaels, run through the different jobs that
 10 you had, approximately when you had them, and what the
 11 job duties were at each position?

12 A. The first job when I got hired there, I was in
 13 collections. It was a small balance at that time. Then
 14 I went to a mid balance position approximately maybe a
 15 year after the small balance position. And then I went
 16 to a -- it's called a quality control position. Then I
 17 went to a worldcom position, which is like a -- it's
 18 like a little portfolio that they had that -- they put me
 19 on a special program. And that's what I worked for
 20 probably three years.

21 Q. At each of these positions, these were
 22 basically positions where you would attempt to collect
 23 debts?

24 A. Yes.

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Kimberly Marlow

3 (Pages 6 to 9)

Page 6

1 Q. Okay.
 2 A. Yes.
 3 Q. What after that?
 4 A. The last position before I was a collector was
 5 a small balance management position.
 6 Q. When did you have that?
 7 A. That was four -- approximately four years ago.
 8 Q. How long did you have that position?
 9 A. Probably a year. Maybe a little bit longer.
 10 Q. Okay. Then after that what position did you
 11 have?
 12 A. It was a mid balance management position.
 13 Q. What did you do in that position?
 14 A. Oversaw a collection group of mid balance
 15 collectors.
 16 Q. How long did you have that job?
 17 A. I guess about two years. Maybe a little bit
 18 more.
 19 Q. Okay. Can you give me approximate dates now
 20 that you're talking about?
 21 A. Probably 2003. I was in small balance at that
 22 time. 2004 to 2005 I was in mid balance.
 23 Q. What was the responsibilities of a mid balance
 24 manager that you had in 2004 and 2005?

Page 7

1 A. It was to oversee a group of collectors in a
 2 certain range of dollar fee amount collected, and I was
 3 to oversee their accounts, them themselves, policies and
 4 procedures, system. That's basically it.
 5 Q. Did you have collection responsibilities
 6 yourself? Did you collect debts yourself or did you just
 7 oversee other people's efforts?
 8 A. At times I would collect debts myself. I
 9 didn't essentially have a unit to work from, but I did
 10 help in collections, yes.
 11 Q. Okay. Who did you report to during this
 12 period that you were the mid balance manager --
 13 collection manager?
 14 A. At that point it was Brian Laiche.
 15 Q. When you say "that point," what do you mean?
 16 A. My last mid balance position was I was
 17 reporting to Brian Laiche at that time.
 18 Q. When was that?
 19 A. I had fluctuated back and forth under Valerie
 20 and Rick, so it was -- when Valerie got promoted, I was
 21 small balance collection manager.
 22 Q. When you say "Valerie," you mean Valerie Hue,
 23 the plaintiff in this case?
 24 A. Correct.

Page 8

1 Q. When you say "Rick," who do you mean?
 2 A. Rick Boudreau, who was the general collections
 3 manager at the time.
 4 Q. That was back in what time period?
 5 A. 2001.
 6 Q. Okay. So you worked for --
 7 A. Several.
 8 Q. -- Rick Boudreau as a small balance manager,
 9 and then you worked for a time for Valerie Hue in that
 10 same position.
 11 A. Yes.
 12 Q. In 2003 what job did you have? Was that with
 13 small balance management still?
 14 A. Yes.
 15 Q. Okay. You reported to Valerie Hue, is that
 16 correct, during 2003?
 17 A. That's correct.
 18 Q. Then in 2004 you reported to Brian Laiche?
 19 A. That's correct.
 20 Q. Okay. Did you ever, for any point in time,
 21 actually hold the position even on a temporary basis that
 22 Valerie Hue held before her termination?
 23 A. Before her termination?
 24 Q. After her termination.

Page 9

1 After she was terminated, did you do her
 2 job for a time period?
 3 A. Yes.
 4 Q. When was that?
 5 A. Directly right after she was let go.
 6 Q. Okay. For how long did you perform that job?
 7 A. Probably up until maybe six months or better.
 8 And then they changed the position to senior management.
 9 And I was labeled senior management instead of
 10 collection -- general collections manager.
 11 Q. Okay. Did the function change after that six-
 12 month period was over?
 13 A. Yes.
 14 Q. Did your job duties change? How did they
 15 change?
 16 A. We would report -- I would have to report
 17 to -- just like if I was reporting to Valerie Hue, I
 18 would have to report to someone else.
 19 Q. Okay.
 20 A. I had different things and schedules and
 21 programs that I'd have to do that had to be reported to
 22 someone else.
 23 Q. When you --
 24 A. I wasn't the final decision-maker.

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4--(Pages 10 to 13)

Page 10

1 Q. Okay. When you held the job that Valerie Hue
2 had performed in that six-month period, who did you
3 report to during that time period?
4 A. Kathy Obenshain.
5 Q. Okay. Was that for the whole six-month
6 period, or did she leave at some point during that
7 period?
8 A. She left during that period of time.
9 Q. Then who did you report to?
10 A. Brian Laiche.
11 Q. Okay. Can you tell me what you did to prepare
12 for the deposition today, if anything at all?
13 A. Just reviewed significant pieces of the check
14 handling policy.
15 Q. Okay. Were these documents that you reviewed?
16 Did you review documents?
17 A. My statement that I reviewed.
18 Q. Anything else?
19 A. No.
20 Q. Okay. Did you have any discussions with NCO's
21 attorneys?
22 A. Yes.
23 Q. Okay. How long were those discussions?
24 A. A couple hours.

Page 11

1 Q. Okay. When was that? Just before today?
2 A. Yesterday.
3 Q. Yesterday.
4 Okay. Are you familiar with the term
5 "NSF"?
6 A. Yes.
7 Q. What is that?
8 A. That's a nonsufficient funds check.
9 Q. Okay.
10 A. That's when a check comes back from the bank
11 for nonsufficient funds.
12 Q. Okay. Are you familiar with a policy that NCO
13 had for processing checks that had been returned NSF?
14 A. Yes.
15 Q. Okay. Did the policy change over time?
16 A. It was tweaked over time.
17 MS. FITTE: Object to form. Go ahead.
18 You can answer.
19 THE WITNESS: It was tweaked over time.
20 I mean, there was things that were added to the policy to
21 change it a little bit, but for the most part, it was the
22 same policy.
23 BY MR. HOMER:
24 Q. Okay. Can you tell me what the policy was in

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1 December of 2003?
2 A. It's the same policy. If you're talking about
3 the NSF correlation, it is -- you would call the debtor
4 to verify the funds, call the bank to make sure the funds
5 were available, and then to get your manager to find out
6 if it was something that needed to be processed at that
7 time. We didn't have what was called a redeposit at the
8 time, nor do we still.
9 Q. Well, I think you just sort of explained a
10 little bit about the process. But can you tell me
11 specifically, if you recall, what the policy itself was
12 in terms of what checks could be redeposited that had
13 been returned NSF? What criteria were used to determine
14 whether you could redeposit them or not? I'm talking
15 again about December of 2003.
16 A. That's pretty much what I said. It would have
17 to be -- the collector would have to call the debtor to
18 verify the fund -- to make sure there was sufficient
19 funds in order for the check to be redeposited and/or
20 they would call the bank to make sure there were funds
21 available at that time to represent the check.
22 Q. When you say "and/or," which was it? Do you
23 have to do both or do you just have to do one --
24 A. You had to do both, but --

Page 13

1 Q. -- or the other?
2 Excuse me. Don't talk over my question.
3 Okay?
4 A. Sorry.
5 Q. The court reporter needs to get it down.
6 Okay. The question, again, was: You
7 said "and/or." Did you mean you have to do both those
8 two things, or could you do either one? By that I'm
9 talking about verifying with the bank or contacting the
10 debtor.
11 A. You had to do both, but at --
12 Q. And -- I'm sorry. Go ahead.
13 A. But at times there was where a bank did not
14 verify the check or the funds. There was certain banks
15 that wouldn't verify. You could call them up, and they
16 wouldn't verify over the phone. So then you would only
17 have the debtor's word that the check was, you know, okay
18 for the deposit.
19 Q. Okay. Was it the collectors that contacted
20 the bank or someone else?
21 A. The collector was responsible to contact the
22 bank.
23 Q. Okay. This was in the period of December of
24 2003?

Kimberly Marlow

13 (Pages 46 to 49)

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1 month and we were trying to get as much fee on the books
2 as we probably could.

3 Q. But why would you need to do that? Why would
4 you need to get a level of comfort?

5 A. To assure that the check would clear.

6 Q. Let's say that the bank had been contacted and
7 the check had been verified. The collector had told you
8 they contacted the debtor and that there were funds
9 available. Why do you need to have a meeting to go over
10 and obtain another level of comfort before you submit the
11 check?

12 A. That's actually just something that we did as
13 a group just to make sure that everything was, you know,
14 completed correctly.

15 Q. When Mr. Shaw talked about exercising
16 judgment, what was he talking about there?

17 MS. FITE: Object to form. Answer if
18 you know.

19 A. Like if -- as far as Eric's judgment, I can't
20 say what his judgment is. But if you're asking me for my
21 judgment, that's a whole different story.

22 Q. Well, you testified that the process that you
23 were talking about was the same one that Eric talked
24 about, and he does talk about sitting down and going

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1 through -- you just mentioned yourself you were trying to
2 get a level of comfort.

3 A. Mm-hmm.

4 Q. Was there any judgment involved in whether you
5 resubmitted the checks or not?

6 A. At times there was.

7 Q. How did judgment come into it?

8 A. For an example, if you had a debtor that
9 actually made a deposit that day and the funds were going
10 to be available that night, that was a judgment call.
11 That was something that you, as a management group, would
12 sit down and talk about. Do you think we should go ahead
13 and put this on or do you think we should wait? And at
14 that point it's the manager's discretion whether to go
15 ahead and properly put that. But it was proper
16 documentation and you had to have it signed off by a
17 manager.

18 Q. Any other examples of when you used judgment?

19 A. Possibly the bank won't verify and the debtor
20 is saying that he did make a deposit and/or there is some
21 affiliation that the check would clear at -- what we had
22 was EOM2. So now we don't have that. But EOM2 was if it
23 was cleared up or made up within that five-day period of
24 time. I know it's confusing to you, but...

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1 Q. Well, let's take an example. Let's say the
2 bank didn't verify.

3 A. Okay.

4 Q. The collector indicated he contacted the
5 debtor and the debtor verified the funds. What judgment
6 would come into play at that point in time for
7 resubmitting the check. Isn't that all you really needed
8 to know -- that he had verified the funds?

9 A. That would be a manager's discretion. Not
10 exactly, because it actually didn't clear through -- it
11 wouldn't have cleared through the bank, because you just
12 told me that the bank told you that there was no funds
13 available but the debtor said there was. So that was the
14 judgment.

15 Q. No. I just said the bank didn't verify.

16 A. Oh. They won't verify.

17 Q. They couldn't --

18 A. I'm sorry.

19 Q. They couldn't get a verification from the
20 bank.

21 A. That's a judgmental call to the manager at
22 that point.

23 Q. Isn't it true that all the NSF checks that you
24 reviewed with the collectors in this process with Ms. Hue

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1 and Mr. Shaw -- all those checks -- had there been an
2 attempt to verify with the bank whether the funds were
3 available?

4 MS. FITE: Object to form. Answer if
5 you understand.

6 A. In some cases. In some cases. I don't -- in
7 my group I only did mine. So if there was anything else
8 in another group, I wouldn't primarily have that
9 authority.

10 Q. Wasn't there somebody else in the Dover office
11 that tried to contact the banks to verify funds?

12 MS. FITE: Object to form.

13 A. It could have been at that point an admin, but
14 that would be the only person that I know that would
15 actually have called the bank.

16 Q. Do you know --

17 A. Other than the collector.

18 Q. Would that have been at that time
19 Ms. Nickerson?

20 A. Yes. She was our admin at that time.

21 Q. Before that it would have been Jenie Birdsong?

22 A. Yes.

23 Q. Do you know whether they had any role in
24 trying to verify funds with the bank?

Kimberly Marlow

14 (Pages 50 to 53)

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1 A. I – the only rule that I know of is a
2 deposit. They would do post dates at the end of the
3 month to make sure that they were going to clear. Now, I
4 do know that that was a policy that the admins were
5 responsible for. But as far as clearing an NSF check, it
6 was primarily up to the collector to do that. But at
7 times we did ask the admins to call the banks.

8 Q. Mm-hmm.

9 A. And I don't recall if that's one of those
10 times or not, to be honest.

11 Q. What do you mean at times? You mean for the
12 whole month or just for specific checks or –

13 A. No. Just the end of the month run.

14 Q. For the whole run?

15 A. It might not be for the whole run. It might
16 be a couple of checks here or there.

17 Q. Okay.

18 A. It depends on if – it depends on how busy we
19 were at that point in time.

20 Q. Okay. What did you work from when you brought
21 in the collectors? Did you have some documents you had
22 in hand that you knew were the NSF checks?

23 A. Yes. We would – there was a spreadsheet that
24 we had actually. I believe that admins put together that

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1 spreadsheet. Or we might have as managers. I don't
2 remember at that point in time. And it would list all
3 the NSFs.

4 Q. You don't know whether the admin had already
5 contacted the bank and couldn't get verification for the
6 list of those checks?

7 A. I have no idea.

8 Q. Okay. You don't know whether they did or not?

9 A. I don't know.

10 Q. So you don't really know what the process was.
11 Is that what you're telling me?

12 MS. FITE: Object to form.

13 A. No. I don't know if she helped in that
14 process or not at that point in time.

15 Q. Well, I just want to get this clarified,
16 because before you told me that you had to do both bank
17 verification and debtor verification, but now you're
18 telling me you don't know whether the checks that you got
19 a list of had already been run through the bank
20 verification process and not passed.

21 MS. FITE: Object to form. She said
22 and/or.

23 A. Yeah. I don't believe I said that. I said
24 that you could either have the debtor verify funds. And

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1 then that was a judgment call to the manager. Or you
2 could call the bank and find out if the funds were
3 available. But your policy – the policy is to call
4 both. You might not get a hold of the bank, and they
5 might not verify.

6 Q. What you said before was that the policy was
7 the collector was to call the debtor for verification
8 even if the bank had already verified.

9 A. Yes.

10 MS. FITE: Jerry, do you mind if we take
11 a break?

12 MR. HOMER: That's fine.

13 (A brief recess was taken.)

14 -----

15 KIM MARLOW, resumes

16 BY MR. HOMER:

17 Q. Referring back to Exhibit 2, which is your
18 statement to Fox, the last paragraph says, quote, last
19 month before Valerie left for vacation, she gave the
20 directive to Eric Shaw (mid balance manager) and handed
21 him all the cash journals of the collectors that she
22 found multiple NSFs – and there's a – I'm not sure if
23 that word is "or not" – but it goes on and says and told
24 to get them all on, quote/end quote.

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1 Do you recall making that statement?

2 A. Yes.

3 Q. Could you tell me, where did you learn that
4 this directive had been given to Mr. Shaw to get them all
5 on?

6 A. That's what he told me.

7 Q. Okay. You don't have independent knowledge of
8 it? You weren't present when he was told to?

9 A. No.

10 Q. Okay. It goes on to say in the letter right
11 after that, "I know this because we were in our morning
12 managers meeting..." What does that mean? Why would you
13 know that because you were in the morning managers
14 meeting?

15 A. Managers meetings we held every morning, and
16 she would give us things to do as per the day goes on.
17 And as she was leaving, she would give me things to do
18 that day, and he would have things to do that day.

19 Q. Okay. All right. Referring again to your
20 statement, Exhibit 2, in the second paragraph, it says,
21 "On a monthly basis, we were given the directive to run
22 checks that we knew were not going to clear the bank."
23 Who does "we" refer to there?

24 A. Our management staff.

Kimberly Marlow

15 (Pages 54 to 57)

Page 54

1 Q. Would that be collectors? Would that be just
 2 you and Mr. Shaw? Who was the management staff?
 3 A. That would be me, Val Hue and Eric Shaw.
 4 Q. Okay. So it says on a monthly basis you were
 5 given the directive. Who gave you the directive to run
 6 checks that you knew weren't going to clear the bank?
 7 A. Our directive was from Val.
 8 Q. She told you to run checks that she knew and
 9 you knew weren't going to clear the bank?
 10 A. At times.
 11 Q. Okay. When did she do that?
 12 A. It could have been any time at the end of the
 13 month.
 14 Q. Okay. She did it several times?
 15 A. Several months?
 16 Q. Yes.
 17 A. It could have been, yes.
 18 Q. Well, you say "could have been." You wrote
 19 the statement. It says on a monthly basis we were given
 20 the direction to do this. Did you mean by that statement
 21 that at the end of every month she told you to run checks
 22 that you knew weren't going to clear? What does that
 23 statement mean?
 24 A. The statement means that each month that we

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1 would have an overview of what was going on that month.
 2 It might not happen exactly every month, but there were
 3 times that it did happen. But our preface for our
 4 meeting is -- was to get everything on at that point in
 5 time.
 6 Q. Well, the next sentence says, quote, we were
 7 directed to pull the cash journals and put the checks
 8 back on that were from the previous months. Then we
 9 pulled each collector in one by one and discussed the
 10 checks that would be run and the level of comfort of them
 11 clearing. Right?
 12 A. Correct.
 13 Q. So when you say it in the first sentence that
 14 you were given the directive to run checks that weren't
 15 going to clear the bank, is that qualified by the later
 16 discussion there that says that you would get a level of
 17 comfort by talking to the collector about it?
 18 MS. FITE: Object to form. Answer if
 19 you understand.
 20 A. Can you repeat that question for me?
 21 BY MR. HOMER:
 22 Q. You say in the first sentence that we're given
 23 a directive to run checks that we knew weren't going to
 24 clear, but right after that you're talking about calling

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1 in the collectors and going through one by one and trying
 2 to get a comfort level.
 3 My question is: The statement that you
 4 were given a directive to run checks that you knew
 5 weren't going to be put on, is that qualified by the fact
 6 that you would try to find out with the collectors
 7 whether they would clear or not?
 8 MS. FITE: Same objection.
 9 BY MR. HOMER:
 10 Q. Or are those just two totally different
 11 concepts?
 12 MS. FITE: Same objection.
 13 A. As far as the checks that weren't going to
 14 clear the bank, would we discuss them with another --
 15 Q. Would you discuss it with --
 16 A. Would we discuss that with a collector?
 17 Q. Right.
 18 Would you discuss those with the
 19 collectors to try to get a comfort level?
 20 A. At times.
 21 Q. Now, why would you have that discussion if you
 22 knew they weren't going to clear the bank?
 23 A. Because they could have talked to the debtor
 24 after that point. They might not clear at this point,

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1 which is EOM1, but it might have cleared on EOM2.
 2 Q. Okay. You would have that second discussion
 3 at EOM2 about whether the check would clear?
 4 A. It was actually before EOM2.
 5 Q. Okay. Well, let's get back to the first
 6 sentence. In the first sentence, you say, on a monthly
 7 basis we were given the directive, you say, by Valerie
 8 Hue to run checks that we knew were not going to clear
 9 the bank. You're personally aware of Valerie Hue telling
 10 you to run checks that she knew weren't going to clear
 11 the bank?
 12 A. She didn't personally tell me to put checks on
 13 that were not going to clear the bank, but I know of
 14 instances where I've been told by the collectors that she
 15 told them.
 16 Q. Okay. So it's hearsay. She never actually
 17 told you to do that.
 18 A. No. She never actually told me to do that.
 19 Q. Okay. Who told you that she told them to do
 20 that?
 21 A. Dave McQuisten was one of those people.
 22 Q. But Dave McQuisten wouldn't be the one that
 23 runs the checks, would he?
 24 A. Yes.

Kimberly Marlow

16 (Pages 58 to 61)

Page 58

1 Q. What was the process for resubmitting the NSF
2 check?

3 A. The process would be -- running an NSF, you
4 would contact the debtor, as I stated before, the bank,
5 or -- and/or get the notification from the manager, have
6 the manager notate on the account whether this can be run
7 or not run. And then it's sent to corporate to run -- to
8 our accounting division to run.

9 Q. Okay. In your Exhibit 2, your statement, when
10 you say "...we were given the directive to run checks
11 that we knew were not going to clear the bank," the basis
12 for that information was something that the collectors
13 told you, not something that Valerie Hue told you.
14 Correct?

15 MS. FITE: Object to form.

16 A. Can you repeat that again?

17 MR. HOMER: Could you read that back?

18 THE WITNESS: Sorry.

19 (The reporter read the requested
20 portion.)

21 THE WITNESS: That's a yes and no
22 question. And the reason why I'm saying that is, yes, I
23 did hear that from the collectors, but I've also heard
24 her say that. She didn't directly say that to me. She

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1 going to hit threshold and make any money that month. So
2 they hold their debtors for another month so that they
3 can put them on at the beginning of the month to hit
4 their quota for the following month.

5 Q. So just let me see if I can characterize. You
6 can tell me if I got it right or not.

7 A. Okay.

8 Q. You're towards the end of the month. The
9 collector realizes he's not going to get enough money
10 that month to get a bonus. So he doesn't want to submit
11 a check that might be good because he won't get any bonus
12 from it. He would rather wait until the next month when
13 he has a chance to get a bonus. So he holds back the
14 check until the following month. Is that a correct
15 statement of it?

16 A. That is correct.

17 Q. Okay. Referring now to the third paragraph of
18 Exhibit 2, I'd like to read from that again: I know for
19 a fact that collectors have asked for some checks to be
20 pulled at the end of the month because they knew they
21 would not clear. She, Val, stated that she had a
22 directive from Kathy Obenshain that we are not pulling
23 any checks off the system and to make this happen.
24 Collectors have complained several times about having to

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1 might have said that to -- I'm sure she said it to Eric.
2 It was...

3 BY MR. HOMER:

4 Q. You say you're sure she said it to Eric.
5 Were you present when she said it to
6 Eric?

7 A. No, I was not present.

8 Q. Okay. Were you ever present when she gave a
9 directive to run a check that she knew wasn't going to
10 clear the bank?

11 A. At that time if we were running checks, I
12 wouldn't know which ones she approved and which ones she
13 didn't approve. So I wouldn't know which check -- she
14 wouldn't have -- she would have known that weren't going
15 to clear and what would clear.

16 Q. So the answer to that question would be --

17 A. No.

18 Q. -- no?

19 A. Is no.

20 Q. Okay. Are you familiar with the term
21 "sandbagging"?

22 A. Yes, I am.

23 Q. What does that term refer to?

24 A. That's when a collector knows that they're not

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1 put on bad checks at the end of the month that they knew
2 would not clear and would put them at a negative at the
3 beginning of the following month.

4 You say in the first sentence: I know
5 for a fact that collectors have asked for some checks to
6 be pulled at the end of the month because they knew they
7 would not clear. What's the factual basis of that
8 statement?

9 A. Because I've had collectors at times come up
10 to me and say, "This is not going to clear. There's no
11 funds in the account to clear, and I don't want this to
12 run."

13 Q. Is that what a collector would do if they were
14 going to sandbag? Let's assume that there were funds
15 available. Would a collector come to you and say that
16 they wouldn't clear so that they could get credit the
17 next month?

18 MS. FITE: Object to form. Answer if
19 you can.

20 A. Can you repeat that question for me?

21 Q. Would a collector come to you towards the end
22 of the month and tell you that a check wasn't going to
23 clear so that he could get credit for it the next month?
24 Isn't that what sandbagging is?